

Sines, et al. v. Kessler, et al., 3:17CV72, 11/11/2021

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
CHARLOTTESVILLE DIVISION

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ELIZABETH SINES, ET AL., CIVIL CASE NO.: 3:17CV72  
NOVEMBER 11, 2021, 9:00 AM  
JURY TRIAL, DAY 14

Plaintiffs,

vs.

Before:

HONORABLE NORMAN K. MOON  
UNITED STATES DISTRICT JUDGE  
WESTERN DISTRICT OF VIRGINIA

JASON KESSLER, ET AL.,

Defendants.

\*\*\*\*\*

APPEARANCES:

For the Plaintiffs: ALAN LEVINE, ESQUIRE  
COOLEY LLP  
1114 Avenue of the Americas, 46th  
Floor  
New York, NY 10036  
212.479.6260

DAVID E. MILLS, ESQUIRE  
CAITLIN B. MUNLEY, ESQUIRE  
JOSHUA SIEGEL, ESQUIRE  
COOLEY LLP  
1299 Pennsylvania Avenue, NW,  
Suite 700  
Washington, DC 20004  
202.842.7800

Court Reporter: Lisa M. Blair, RPR, RMR, CRR, FOCR  
255 West Main Street, Suite 304  
Charlottesville, Virginia 22902  
434.296.9284

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1 APPEARANCES CONTINUED:

2 For the Plaintiffs:

YOTAM BARKAI, ESQUIRE  
EMILY C. COLE, ESQUIRE  
ROBERTA A. KAPLAN, ESQUIRE  
Kaplan Hecker & Fink LLP  
350 Fifth Avenue, Suite 7110  
New York, NY 10118  
212.763.0883

KAREN L. DUNN, ESQUIRE  
WILLIAM A. ISAACSON, ESQUIRE  
JESSICA E. PHILLIPS, ESQUIRE  
Paul, Weiss, Rifkind, Wharton &  
Garrison LLP  
2001 K Street, NW  
Washington, DC 20006  
202.223.7300

11 For the Defendants:

DAVID L. CAMPBELL, ESQUIRE  
Duane, Hauck, Davis, Gravatt &  
Campbell, P.C.  
100 West Franklin Street, Suite 100  
Richmond, VA 23220  
804.644.7400

CHRISTOPHER CANTWELL, PRO SE  
#00991-509  
USP Marion  
4500 Prison Road, PO Box 2000  
Marion, IL 62959

BRYAN J. JONES, ESQUIRE  
Bryan J. Jones, Attorney at law  
106 W. South Street, Suite 211  
Charlottesville, VA 22902  
540.623.6952

JAMES E. KOLENICH, ESQUIRE  
Kolenich Law Office  
9435 Waterstone Blvd., Suite 140  
Cincinnati, OH 45249  
513.444.2150

1 APPEARANCES CONTINUED:

2 For the Defendants:

WILLIAM E. REBROOK, IV, ESQUIRE  
(Appearing via Zoom)  
The ReBrook Law Office  
6013 Clerkenwell Court  
Burke, VA 22015  
571.215.9006

JOSHUA SMITH, ESQUIRE  
(Appearing via Zoom)  
Smith LLC  
807 Crane Avenue  
Pittsburgh, PA 15216  
917.567.3168

RICHARD SPENCER, PRO SE  
P.O. Box 1676  
Whitefish, MT 59937

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1 (Proceedings commenced, 9:00 a.m.)

2 THE COURT: Good morning. I have your letter. After  
3 we get through the witness, I'll give an instruction, curative  
4 instruction.

5 MS. DUNN: Thank you.

6 THE COURT: All right.

7 MS. KAPLAN: Your Honor, before the jury comes in,  
8 one issue, which I was just discussing with Mr. Kolenich -- we  
9 understand Mr. Cantwell, who can obviously speak for himself,  
10 has a very long video he wants to play as part of defendants'  
11 case, over two hours, which we believe will start as early as  
12 tomorrow, as Your Honor is aware.

13 I don't know if it's possible, but is it -- and I  
14 hate to even ask this, because I understand all the issues with  
15 the marshals and everything, but would it be possible for him  
16 to have a couple of hours sometime after court today with a  
17 computer so that rather than having to watch the whole thing  
18 and have him point sections out, he can figure out what the  
19 time is? I think it would be much more efficient with the jury  
20 that way.

21 THE COURT: Mr. Cantwell? I mean, answer. First of  
22 all, can you do that if you have the time?

23 MR. CANTWELL: I'm not entirely certain what they're  
24 trying to accomplish other than -- the purpose of showing the  
25 whole video is that there is a distinct absence of something

1 happening, okay? And so it had occurred to me that I could cut  
2 out -- there are some segments where there's literally no  
3 talking, and I could certainly see it being reasonable to cut  
4 those portions of it out. I'm not sure how much of the video  
5 consists of that and how much time that would actually save. I  
6 would be happy to -- if given the opportunity, I'd be happy to  
7 use whatever resources were made available to me to reduce the  
8 time span of the video as much as possible; however, the  
9 purpose of showing the entire thing is to display the distinct  
10 absence of something. So cutting out large segments of  
11 discussion would seem to defeat the purpose, if that makes  
12 sense.

13 THE COURT: Okay. Well, I mean, it doesn't make any  
14 sense to play a lot -- just filler. I mean --

15 MR. CANTWELL: I'm also --

16 THE COURT: We'll have to talk to the marshals.  
17 That's not an easy thing. I can't resolve it.

18 MR. CANTWELL: It's my expectation that at 5 p.m. the  
19 staff of the Central Virginia Regional Jail are going to show  
20 up at this place planning to take me back. I'm certain that  
21 the Court has obviously the power to make people change their  
22 behavior, no question about it. But I'm happy to do what the  
23 Court sees fit. It just hits me out of nowhere. I don't know  
24 exactly what I'd be expected to accomplish here.

25 THE COURT: Well, just cut out anything that's

1 irrelevant. It's just like you wouldn't get on the witness  
2 stand and say this minute nothing happened, this minute  
3 happened, and go through that. I mean, you would just play  
4 things at significant times.

5 I mean, you're only -- you were not around on the  
6 12th, right, as far as being at this park?

7 MR. CANTWELL: My understanding is that bears  
8 distinctly little relevance in the question of a conspiracy.  
9 So I got maced first thing in the morning while I'm trying to  
10 get into the park by their pal, right? And so, yeah, I wasn't  
11 around for any of this stuff --

12 THE COURT: Okay. Well --

13 MR. CANTWELL: -- you know, but I was at this  
14 so-called --

15 THE COURT: We'll talk with the marshals and see what  
16 can go -- yes, sir.

17 MR. JONES: Your Honor, I just want to go back to  
18 this curative instruction. I don't object to the Court giving  
19 a general instruction about the statements of the attorneys and  
20 the statements of the judge are not considered evidence, but to  
21 selectively quote statements that he made on direct without  
22 also quoting what he admitted on cross, which was that his  
23 objectives were the same as Antifa, Jesus is Antifa -- so to  
24 just quote what he said on direct I think is prejudicial and  
25 misleading to the jury. And we'd ask that his quotes from

1 cross-examination be admitted as well.

2 THE COURT: Okay.

3 MS. KAPLAN: I don't have any issue with Your Honor  
4 taking out the quotes. What the curative instruction I think  
5 is intended to do --

6 THE COURT: I think I'll just tell them to disregard  
7 what I said, that they have to consider all of his testimony,  
8 and what I said is not an accurate description of his entire  
9 testimony.

10 MS. KAPLAN: I think that will be fine, Your Honor.  
11 Thank you.

12 THE COURT: All right. Call the jury, please.

13 MR. CANTWELL: One more thing real quick. I'm sorry.

14 THE COURT: Well, call the jury.

15 MR. CANTWELL: Okay.

16 THE COURT: No, you can go ahead. It takes them a  
17 while to come around.

18 MR. CANTWELL: There was this issue of a blog post  
19 which the plaintiffs were hoping to have Mr. Simi testify  
20 about. I don't know what all the limits are. The original  
21 proposal I understand was to show it to the jury. Mr. Kolenich  
22 yesterday said if they don't show it to the jury, we don't have  
23 a problem.

24 I have a problem with Mr. Simi basing much of his  
25 testimony on this document because the author of that document

1 is suited for some substantial cross-examination. He is a  
2 self-described troll who is on the Internet saying that he  
3 infiltrates movements to make them look bad by behaving poorly.  
4 And this document is basically an effort to get adverse  
5 inferences without the assistance of the Court, trying to claim  
6 that because we subscribe to an ideology, that we're destroying  
7 evidence. That testimony I think is probably outside the realm  
8 of his expertise to the extent that any exists, and I don't  
9 think it's proper.

10 MS. KAPLAN: Your Honor, first of all, as we  
11 explained in our letter, Mr. Simi relied on this in his report.  
12 It's clearly usable as 703 material. We agreed to only  
13 actually point out one paragraph in the entire report and not  
14 to show it to the jury, as I agreed with Mr. Kolenich.

15 But I just have to make a point here, Your Honor.  
16 Mr. Cantwell can have whatever -- please make sure the jury  
17 doesn't come in. Mr. Cantwell can have whatever ideology he  
18 has. That's one thing, and it's somewhat related to this case.  
19 I understand that. But to write in court pleadings that are  
20 filed in a public court that the author of this article,  
21 "there's no secret that he hails from Jewish ancestry," that  
22 "Simi is in no position to comment on the Jewish author's  
23 mindset" is not appropriate, Your Honor, for the dignity of a  
24 federal court.

25 He can have his beliefs. He cannot put beliefs that

1 are prejudicial in a federal court filing.

2 THE COURT: Look, I've already ruled that this  
3 witness can testify. We've had hearings on this and I'm going  
4 to stick to the ruling I've had. She can testify as to what  
5 she relied upon, and you can ask her -- you can cross-examine  
6 her about that.

7 MR. CANTWELL: Very good.

8 THE COURT: Is the jury on the way?

9 **(Jury in, 9:07 a.m.)**

10 THE COURT: All right. You all may have a seat.  
11 Good morning, ladies and gentlemen of the jury. Glad to see  
12 you back this morning.

13 You may proceed with the deposition. I'm sorry.

14 Before we begin, I need to remind everyone that under  
15 Standing Order 2020-12 and 2013-8, the Court's prohibition  
16 against recording and broadcasting court proceedings remains in  
17 force. Attorneys, parties and their staff and any members of  
18 the public or press accessing this proceeding today may not  
19 record or broadcast it. That means no photography, no using  
20 any video or audio recording device, no rebroadcasting,  
21 livestreaming, or otherwise disseminating any live or recorded  
22 video or audio of this proceeding.

23 I don't think you called the case, have you?

24 THE CLERK: No, Your Honor.

25 THE COURT: Call it.

1 THE CLERK: This is Civil Action Number 3:17-cv-72,  
2 Elizabeth Sines and others versus Jason Kessler and others.

3 THE COURT: Plaintiff ready?

4 MS. KAPLAN: We are, Your Honor.

5 THE COURT: Defendants ready?

6 MR. KOLENICH: Yes, sir.

7 THE COURT: All right. You may proceed with the  
8 remainder of the video.

9 MS. KAPLAN: Exactly, Your Honor, thank you.

10 (Video deposition of Michael Chesny played.)

11 MS. KAPLAN: Your Honor, plaintiffs offer Plaintiffs'  
12 Exhibit -- I'm just going to read them slowly, Ms. Wheeler,  
13 because I know I've been difficult on this in the past and I  
14 apologize. Plaintiffs' Exhibit 1136, Plaintiffs' Exhibit 0819,  
15 Plaintiffs' Exhibit 3434, PX-0593, PX-1174, PX-1171, PX-1125,  
16 PX-1182, PX-1060, PX-2879, PX-1144, PX-1119, PX-1027, PX-1017,  
17 PX-1153, PX-1031, PX-1007, and finally, PX-2088. And the clip  
18 report for Mr. Chesny's video, which the jury just saw, is  
19 Plaintiffs' Exhibit 3895.

20 THE COURT: All right. They will be admitted.

21 (Plaintiff Exhibits 1136, 0819, 3434, 0593, 1174,  
22 1171, 1125, 1182, 1060, 2879, 1144, 1119, 1027, 1017, 1153,  
23 1031, 1007, 2088, and 3895 marked.)

24 (Plaintiff Exhibits 1136, 0819, 3434, 0593, 1174,  
25 1171, 1125, 1182, 1060, 2879, 1144, 1119, 1027, 1017, 1153,



1 1031, 1007, 2088, and 3895 admitted.)

2 THE COURT: Who will be the next witness? Will it be  
3 live?

4 MS. KAPLAN: The next presentation, Your Honor, will  
5 be a presentation by Mr. Mills of the Fields evidence, the  
6 evidence related to James Fields.

7 THE COURT: Before that witness -- have you called  
8 the witness? Where is the witness?

9 MR. MILLS: I'm going to make a presentation like  
10 Mr. Isaacson did with regard to Mr. Ray.

11 THE COURT: Okay. Let me take care of this other  
12 thing.

13 Members of the jury, yesterday during the testimony  
14 of Mr. Nathan Damigo, an issue came up about his foundation of  
15 any knowledge about Antifa, and I made remarks and a ruling on  
16 that that he -- referring back to Reverend Wispelwey's  
17 testimony. And I did not give a complete and accurate  
18 statement of all of his testimony. And you should disregard it  
19 because you have -- I was ruling on a motion, and when I rule  
20 on a motion, that's not something for you to be concerned with.

21 And I don't want to confuse the issue about what the  
22 Reverend said and what Mr. Damigo said. But I will say  
23 Mr. Damigo should not rely upon -- what the Reverend said is  
24 not a foundation for what Mr. Damigo said. And you'll just  
25 have to remember all of the Reverend's testimony and don't draw

1 any inference from anything I may have said, because it would  
2 be improper to do so, and it's improper for me to make  
3 statements that reflect on anyone's testimony, because you are  
4 to disregard -- other than what I tell you is the law, or  
5 instructions I specifically give you, you should disregard  
6 anything that I say to the lawyers or about how -- in this  
7 case, how I interpreted Reverend Wispelwey's testimony during  
8 the trial.

9           It's up to you to find the facts, not me. And I'll  
10 just tell you to disregard anything I say when I'm talking to  
11 lawyers or instructing a witness on how to testify. Anything  
12 like that is something you are sworn not to rely upon.

13           Thank you. You may proceed.

14           MR. MILLS: Thank you, Your Honor.

15           Good morning. My name is David Mills, representing  
16 the plaintiffs.

17           Your Honor, just as my colleague, Mr. Isaacson, did  
18 last week for Defendant Ray, we'd like to present exhibits  
19 concerning Defendant James Fields. We've obtained stipulations  
20 or admissions of authenticity for these exhibits and we  
21 provided them all to defendants in advance. We've resolved all  
22 objections that have been raised and we seek admission into  
23 evidence of the following exhibits.

24           Unless you prefer otherwise, rather than admit them  
25 one by one as I present them to the jury, I have a list that I

1 can give to the court reporter and the clerk at the end of the  
2 presentation and have them admitted as a group. If you prefer,  
3 I can move them admitted in advance, but I do want to show them  
4 to the jury.

5 THE COURT: All right. I have no preference.

6 MR. MILLS: We'll do it at the end, then.

7 THE COURT: Whatever is easiest for the clerk. I  
8 think when you're referring to an exhibit, you ought to -- the  
9 jury ought to know the number. So the record should reflect  
10 the number.

11 MR. MILLS: I will definitely do that.

12 The following exhibits consist of documents,  
13 photographs and audio and video recordings and admissions and  
14 stipulations from and concerning James Fields. We will ask the  
15 Court at the end to admit them into evidence so you will have  
16 them with you in your deliberations.

17 The first exhibit I would like to show you is  
18 Plaintiffs' Exhibit PX-03. It's a photograph of Mr. Fields's  
19 bedroom in Ohio which was taken on August 13th, 2017, the day  
20 after Unite the Right.

21 The next exhibit is Exhibit 2, Plaintiffs' Exhibit 2.  
22 It's a closeup photograph of Mr. Fields's bedside table in his  
23 bedroom, also taken on August 13th, 2017.

24 The next exhibit is Plaintiffs' Exhibit 3636. It's a  
25 post by Mr. Fields from his Twitter account on April 4, 2017,

1 retweeting another post. It states, "You are on a great  
2 mission." This Twitter post is from a Twitter account,  
3 TheNewGiantDad. Before trial, Mr. Fields was asked to admit  
4 that he used the user name, TheNewGiantDad, for his Twitter  
5 account. Mr. Fields admitted that he did. Defendant James  
6 Fields has stipulated that he was the only known user of the  
7 Twitter account @TheNewGiantDad. The user names of other  
8 Twitter users who are not defendants or otherwise relevant to  
9 this case have been redacted from this post, as you can see  
10 here and on several other exhibits that we'll show you.

11 The next exhibit is Plaintiffs' Exhibit 3621. It's a  
12 post by Mr. Fields from his Twitter account on April 7, 2017.  
13 It states, "I'm a nationalist and as a nationalist, I'm more  
14 than willing to murder threats to my nation like you, Rick."

15 The next is Plaintiffs' Exhibit 3642. It's a post by  
16 Mr. Fields from his Twitter account on April 11, 2017. It  
17 recites the 14 Words: "We must secure the existence of our  
18 people and a future for white children."

19 The next exhibit is Plaintiffs' Exhibit 3643. It's a  
20 post by Mr. Fields from his Twitter account on April 17, 2017.

21 Next is Plaintiffs' Exhibit 3622. It's a post by  
22 Mr. Fields from his Twitter account on April 22nd, 2017. It  
23 states, "To be honest, the time for war began years ago.  
24 #hitlerwasright."

25 The next is Plaintiffs' Exhibit 3624. It's a post by

1 Mr. Fields from his Twitter account on April 25, 2017,  
2 retweeting another post. It states, "They want you dead, white  
3 man, and they're celebrating every time one of us dies off.  
4 Stick together and fight back."

5 Next is Plaintiffs' Exhibit 3626. It's a post by  
6 Mr. Fields from his Twitter account on April 27, 2017. It  
7 states, "Black, Negro, someone of mostly African descent. They  
8 aren't European. Filthy degenerate."

9 Next is Plaintiffs' Exhibit 3628. It's a post by  
10 Mr. Fields from his Twitter account on May 8, 2017. It states,  
11 "Violence is the only solution. We have no other options.  
12 Voting will solve nothing. The police and courts won't  
13 convict."

14 Next exhibit is Plaintiffs' Exhibit 3629. It's a  
15 post by Mr. Fields from his Twitter account on May 8, 2017. It  
16 states, "Defense of self requires you to kill those who would  
17 cause your death. Violence is our only hope for survival as a  
18 people."

19 Next exhibit is Plaintiffs' Exhibit 3574. It's a  
20 direct message Mr. Fields sent from his Instagram account on  
21 May 12th, 2017. It states, "When I see protesters blocking,"  
22 and it contains a picture of a car running through a crowd of  
23 people.

24 This is Plaintiffs' Exhibit 3631. It's a post by  
25 Mr. Fields from his Twitter account on May 14, 2017. It

1 states, "Blacks make up only 12 percent of the population yet  
2 commit over 50 percent of violent crimes. The average black  
3 has an IQ of 65 to 75, the range of a retard." Again, the  
4 accounts to whom Mr. Fields sent this message are not  
5 defendants in this case and the names have been redacted.

6 The next exhibit is Plaintiffs' Exhibit 3573. It's a  
7 post by Mr. Fields from his Instagram account on May 16, 2017.  
8 It contains a picture of a car running through a crowd of  
9 people. This Instagram post is from the Instagram account  
10 TheBigBoss1337. Before trial Mr. Fields was asked to admit he  
11 used the user name TheBigBoss1337 for his Instagram account,  
12 and Mr. Fields admitted that he did. Mr. Fields has stipulated  
13 he was the only known user of that Instagram account.

14 This is Plaintiffs' Exhibit 3577. It's a series of  
15 posts by Mr. Fields from his Instagram account on May 31, 2017.  
16 They state, "No, you get out. You filthy N word. And soon you  
17 filthy apes will be sent back to the jungle."

18 The next exhibit is Plaintiffs' Exhibit 3579. It  
19 contains direct messages Mr. Fields sent from his Instagram  
20 account on June 5, 2017. One of them states, "Shit's going to  
21 hit the fan and you kikes will know the wrath of the west once  
22 more."

23 The next is Plaintiffs' Exhibit 3578. It's a post by  
24 Mr. Fields from his Instagram account on June 18, 2017.

25 Next is Plaintiffs' Exhibit 3650. It's a direct

1 message Mr. Fields sent from his Twitter account on July 8,  
2 2017. It actually contains seven separate pictures, including  
3 pictures of Zyklon B gas used to kill Jews during World War II.  
4 This is the first image. This is the second image. This is  
5 the third image. This is the fourth. This is the fifth. This  
6 is the sixth. And this is the last in Mr. Fields's direct  
7 message on Twitter on July 8, 2017.

8           The next exhibit is Plaintiffs' Exhibit 3575. It's a  
9 series of posts by Mr. Fields from his Instagram account on  
10 July 14, 2017. The messages read, "Hitler was right," "The  
11 Holocaust is a lie," "Heil Hitler," and "The 14 Words."

12           The next exhibit is Plaintiffs' Exhibit 3633. It's a  
13 post by Mr. Fields from his Twitter account on July 18, 2017.  
14 It states, "Human beings in general are animals. Europeans are  
15 superior sub-species. You should take a course on evolution  
16 sometime, N word." And it contains an image of a black man,  
17 Patrick Ewing, and a gorilla.

18           The next exhibit is Plaintiffs' Exhibit 3617. It's a  
19 post by Mr. Fields from his Twitter account on July 9, 2017,  
20 retweeting another post. It contains a digital flyer for the  
21 Unite the Right event in Charlottesville on August 12, 2017.  
22 It identifies, among others, Richard Spencer, Jason Kessler,  
23 Baked Alaska, Augustus Invictus, Christopher Cantwell, Matt  
24 Heimbach, and Dr. Michael Hill.

25           Defendant James Fields has stipulated to the

1 following facts: Defendant Fields followed David Duke on  
2 Twitter. Defendant Fields followed co-defendant Richard  
3 Spencer on Twitter. Defendant Fields followed co-defendant  
4 Augustus Sol Invictus on Twitter.

5 The next 16 exhibits are posts by Mr. Fields in which  
6 he tagged or retweeted Richard Spencer. We'll go through these  
7 fairly quickly. This is Plaintiffs' Exhibit 3594. It's dated  
8 March 19, 2017.

9 The next is Plaintiffs' Exhibit 3600, dated March 19,  
10 2017, also tagging Richard Spencer.

11 The next is Plaintiffs' Exhibit 3607, dated April 14,  
12 2017.

13 Plaintiffs' Exhibit 3611 is dated May 8, 2017, also  
14 tagging Richard Spencer, and it states, "It's time to buy  
15 rifles."

16 The next is Plaintiffs' Exhibit 3614, dated June 6,  
17 2017, tagging Richard Spencer.

18 Next is Plaintiffs' Exhibit 3613, dated June 6, 2017.

19 Next is Plaintiffs' Exhibit 3596, dated March 19,  
20 2017.

21 Next is Plaintiffs' Exhibit 3587, dated March 8,  
22 2017.

23 Next is Plaintiffs' Exhibit 3586, dated March 8,  
24 2017, also tagging Richard Spencer.

25 Next is Plaintiffs' Exhibit 3588 from March 8, 2017,



1 again tagging Richard Spencer.

2 Next is Plaintiffs' Exhibit 3590, dated March 15,  
3 2017.

4 Plaintiffs' Exhibit 3591 is dated March 15, 2017.  
5 This one retweets a message from Richard Spencer.

6 Plaintiffs' Exhibit 3592 is dated March 15, 2017,  
7 tagging Richard Spencer.

8 Plaintiffs' Exhibit 3593 is dated March 18th, 2017.

9 Plaintiffs' Exhibit 3595 is dated March 19, 2017,  
10 tagging Mr. Spencer.

11 Plaintiffs' Exhibit 3598 is dated March 19, 2017.

12 Next exhibit is Plaintiffs' Exhibit 3582. It's a  
13 series of text messages Mr. Fields sent to his mother on  
14 Thursday August 10, 2017. It contains an image of Wes Bellamy  
15 in a net that Richard Spencer had tweeted that same day.

16 The next eight exhibits are posts by Mr. Fields from  
17 his Twitter account which tag or retweet David Duke. This one  
18 is Plaintiffs' Exhibit 3585 and is dated March 1st, 2017.

19 Next is Plaintiffs' Exhibit 3627 dated May 6, 2017,  
20 tagging David Duke.

21 The next is Plaintiffs' Exhibit 3900, dated May 11,  
22 2017.

23 The next is Plaintiffs' Exhibit 3901, dated August 2,  
24 2017.

25 The next is Exhibit 3902, dated May 11, 2017.

1 Next is Exhibit 3903, dated July 9, 2017, also  
2 tagging Dr. David Duke.

3 Next is Plaintiffs' Exhibit 3904, dated July 9, 2017.

4 Next is Exhibit 3905, dated July 9, 2017.

5 The next four exhibits are posts by Mr. Fields from  
6 his Twitter account which tagged Baked Alaska. They're all  
7 dated July 8, 2017, the date of the KKK rally in  
8 Charlottesville.

9 This one is Plaintiffs' Exhibit 3622 and contains the  
10 14 words.

11 The next one is Plaintiffs' Exhibit 3906.

12 The next is Plaintiffs' Exhibit 3907.

13 The next is Plaintiffs' Exhibit 3908.

14 The next is Plaintiffs' Exhibit 3610. This is a post  
15 by Mr. Fields from his Twitter account on April 29, 2017 which  
16 tags Defendant Nathan Damigo. It says, "Defending the innocent  
17 is a good idea. Defending private property is a good idea.  
18 Both require force."

19 This is Plaintiffs' Exhibit 3909. It's a post by  
20 Mr. Fields from his Twitter account on April 16, 2017,  
21 retweeting another post that contains a video of Nathan Damigo.

22 Next is Plaintiffs' Exhibit 3612. It's a post by  
23 Mr. Fields from his Twitter account on May 17, 2017 which  
24 retweets a message from @occdissent, which is the Twitter  
25 account of League of the South member Brad Griffin.

1 Next is Plaintiffs' Exhibit 3615. This is a post by  
2 Mr. Fields from his Twitter account on July 20, 2017 which tags  
3 Brad Griffin at that same address.

4 Next is Plaintiffs' Exhibit 3589. This is another  
5 post by Mr. Fields from his Twitter account. This one is dated  
6 March 12, 2017 and it retweets a message from Brad Griffin.

7 Next is Plaintiffs' Exhibit 3608. This is another  
8 post by Mr. Fields from his Twitter account dated April 29,  
9 2017, retweeting a message from Brad Griffin.

10 Mr. Fields was asked to admit the following  
11 statements and he gave the following responses:

12 Request: Admit that you arrived in Charlottesville,  
13 Virginia in the early morning of August 12, 2017. Response:  
14 Admitted.

15 Request: Admit that prior to August 12, 2017 you  
16 knew the uniform of Vanguard America was a white polo shirt and  
17 khaki pants. Response: Admitted.

18 Admit that during the Unite the Right rally in  
19 Charlottesville, Virginia, on August 12th, 2017 you wore a  
20 white polo shirt. Admitted.

21 Admit that during the Unite the Right rally in  
22 Charlottesville, Virginia on August 12th, 2017 you wore khaki  
23 pants. Admitted.

24 Admit that you communicated with members of Vanguard  
25 America at the Unite the Right rally that took place on August

1 12, 2017. Admitted.

2 Admit that during the Unite the Right rally in  
3 Charlottesville, Virginia on August 12, 2017 you held a shield  
4 that displayed a symbol of Vanguard America. Admitted.

5 Admit that at the Unite the Right rally on August 12,  
6 2017 you engaged in chants promoting or expressing white  
7 supremacist and other racist and antisemitic views. Admitted.

8 Admit that you received Christmas cards from Vanguard  
9 America. Admitted that Fields received Christmas cards from  
10 Vanguard America in prison.

11 Mr. Fields has also stipulated that he was in  
12 McIntire Park after the state of emergency was declared on  
13 August 12, 2017.

14 Admit that you have used the term "race traitors" to  
15 refer to counter-protesters at the Unite the Right rally that  
16 took place on August 12, 2017 in Charlottesville, Virginia.  
17 Admitted.

18 Admit that you have used the term "communists" to  
19 refer to counter-protesters at the Unite the Right rally in  
20 Charlottesville on August 12, 2017. Admitted.

21 This is Plaintiffs' Exhibit 3583. It's a series of  
22 text messages that Mr. Fields sent to his mother on August 11,  
23 2017, the Friday of the Unite the Right event in  
24 Charlottesville. Mr. Fields's mother wrote, "Be careful."  
25 Mr. Fields responded, "We're not the ones who need to be

1 careful," and included a picture of Adolf Hitler. That was  
2 Plaintiffs' Exhibit 3583.

3 This is Plaintiffs' Exhibit 3584. It's a series of  
4 text messages that Mr. Fields sent to his mother on Saturday,  
5 August 12th, 2017 at 3:05 a.m. It contains images of the torch  
6 march in Charlottesville from the night of August 11.

7 This is the next page of the same exhibit,  
8 Plaintiffs' Exhibit 3584, which shows the same text string from  
9 the Saturday morning of the Unite the Right event on August  
10 12th. Mr. Fields's mother texts to her son: "Oh, my. Sounds  
11 dangerous." And Mr. Fields responds: "No. It's all good.  
12 Our guys had a couple hundred while Antifa only put out 20.  
13 We're expecting around a thousand for today's event. It's made  
14 the news and it's trending. Mostly white males age 20 to 30  
15 with some teens."

16 The next exhibit is Plaintiffs' Exhibit 3616. It's a  
17 post by Mr. Fields from his Twitter account at 5:33 a.m. on  
18 August 12th, 2017, the Saturday of Unite the Right, in which  
19 Mr. Fields tagged Richard Spencer.

20 This is Plaintiffs' Exhibit 3618. It's another post  
21 by Mr. Fields from his Twitter account, four minutes later, at  
22 5:37 a.m. on August 12th, in which Mr. Fields retweets a post  
23 from David Duke about the torch rally which says, "Happening  
24 now at UVa. Our people on the march. Will you be here at  
25 #unitetheright tomorrow?"

1           This is Plaintiffs' Exhibit 1966. It's a picture of  
2 James Fields on August 12, 2017.

3           This is Plaintiffs' Exhibit 3606. It's a post by  
4 Mr. Fields from his Twitter account on August 12th at 12:44  
5 p.m., less than an hour before the car attack, in which  
6 Mr. Fields tagged Richard Spencer, Brad Griffin, and David  
7 Duke, with the message, "Shut it down."

8           THE COURT: Would you say exactly what you mean by  
9 tagged?

10          MR. MILLS: Yes, sir.

11          THE COURT: In light of that -- just using that to  
12 explain it. I'm not sure everyone understands that.

13          MR. MILLS: When you post something on Twitter and  
14 you tag somebody, that message goes directly to that person's  
15 account.

16          THE COURT: Okay. It's not repeating what somebody  
17 said?

18          MR. MILLS: That's retweeting, would be repeating  
19 what somebody said. Tagging is sending your own message, and  
20 when you tag somebody, that person is notified specifically of  
21 that particular post.

22          The next exhibit is Plaintiffs' Exhibit 0313. This  
23 is a short video of Mr. Fields driving his Dodge Challenger  
24 less than an hour later on August 12, 2017.

25          (Video playing.)

1           The next is Plaintiffs' Exhibit 317A. It's another  
2 short video of Mr. Fields driving his Dodge Challenger on  
3 August 12, 2017, this one taken from the helicopter.

4           (Video playing.)

5           The next exhibit is Plaintiffs' Exhibit 3440. It's  
6 an indictment in a criminal prosecution that was brought  
7 against Mr. Fields after the events of August 12th. It charged  
8 Mr. Fields with one count of committing a hate crime resulting  
9 in death, and 28 counts of committing a hate crime involving an  
10 attempt to kill. It's eight pages long. We're just going to  
11 flip through it quickly but you'll have it available to you.  
12 This is the first page, second page. Matt, I'm going to let  
13 you just flip through it.

14           The next exhibit is Plaintiffs' Exhibit 3443. This  
15 is Mr. Fields's guilty plea in that criminal case in which he  
16 pled guilty to Counts one through twenty-nine of the  
17 indictment. It is signed by Mr. Fields on March 27, 2017.

18           The next exhibit is Plaintiffs' Exhibit 3444. This is a  
19 document from Mr. Fields's criminal case, that same criminal  
20 case, called a statement of offense. It was signed by him on  
21 page 3 on January 3rd, 2018. Mr. Fields's statement of offense  
22 states in part as follows -- I'm not going to read all of it,  
23 but some of it.

24           "This statement of offense briefly summarizes the facts  
25 and circumstances surrounding the defendant's criminal

1 conduct." Third paragraph, "Defendant James Alex Fields Jr.  
2 acknowledges and agrees that in proving the elements of the  
3 crimes to which he is pleading guilty, the United States can  
4 establish the following facts beyond a reasonable doubt and  
5 that these facts constitute an adequate basis for his pleas of  
6 guilty."

7 "Prior to August 12, 2017, Defendant Fields obtained  
8 multiple social media accounts which he used to express his  
9 beliefs regarding race, national origin, religion and other  
10 topics. On these accounts Fields expressed and promoted his  
11 view that white people are superior to other races and peoples,  
12 expressed his support of the social and racial policies of  
13 Adolf Hitler and Nazi-era Germany, including the Holocaust, and  
14 espoused violence against African Americans, Jewish people and  
15 members of other racial, ethnic and religious groups he  
16 perceived to be non-white. Fields also expressed these views  
17 directly in interactions with individuals known to him."

18 "In or around the spring and summer of 2017, an event  
19 referred to as the Unite the Right rally was organized and  
20 scheduled to occur on August 12th, 2017, at Emancipation Park  
21 in Charlottesville, Virginia, which is within the Western  
22 District of Virginia. The rally was widely promoted on social  
23 media and Internet sites associated with white supremacist  
24 individuals and groups, and it was scheduled to feature a  
25 lineup of well-known white supremacist leaders."



1 "On or about the afternoon of August 11th, 2017, Defendant  
2 Fields departed Maumee, Ohio, driving his gray Dodge Challenger  
3 bearing Ohio license plate GVF-1111, and arrived in  
4 Charlottesville, Virginia in the early morning of August 12,  
5 2017."

6 MR. CANTWELL: Excuse me. I'm sorry to interrupt. I  
7 have to object. He misread one of those paragraphs and I'd  
8 like him to go back and read it, Judge. He read "white  
9 supremacist leaders." It says "white supremacist speakers."  
10 And that's important to the details of this case.

11 MR. MILLS: I'm happy to correct that, Your Honor.

12 THE COURT: All right.

13 MR. MILLS: If you would go back to the carryover  
14 paragraph, Matt.

15 The last sentence in that paragraph is: "This rally  
16 was widely promoted on social media and Internet sites  
17 associated with white supremacist individuals and groups and  
18 was scheduled to feature a lineup of well known white  
19 supremacist speakers."

20 Let's skip to -- "On the morning of August 12th,  
21 2017, Defendant Fields arrived in and around the immediate  
22 vicinity of Emancipation Park in Charlottesville, Virginia, to  
23 attend the Unite the Right rally. Multiple groups and  
24 individuals espousing white supremacist and other antisemitic  
25 and racist views also attended the rally. That morning these

1 rally participants, including Fields, engaged in chants  
2 promoting or expressing white supremacist and other racist and  
3 antisemitic views."

4 "On August 12, 2017, Defendant Fields drove his car  
5 onto Fourth Street, a narrow, downhill, one-way street in  
6 downtown Charlottesville. At or around the same time, a  
7 racially and ethnically diverse crowd had gathered at the  
8 bottom of the hill at the intersection of Fourth and East Water  
9 Streets. Many of the individuals in the crowd were celebrating  
10 as they were chanting and carrying signs promoting equality and  
11 protesting against racial and other forms of discrimination."

12 "Fields slowly proceeded in his vehicle down Fourth  
13 Street toward the crowd and stopped and observed the crowd  
14 while idling in his vehicle. With no vehicle behind him,  
15 Fields then slowly reversed his vehicle back up Fourth Street  
16 toward the top of the hill, near the intersection of Fourth and  
17 East Market Streets. At or around that same time, the members  
18 of the crowd began to walk up Fourth Street from Water Street  
19 toward Market Street, populating the streets and sidewalks  
20 between the buildings on Fourth Street."

21 "Having reversed his car to a point at or near the  
22 top of the hill at the intersection of Fourth and Market  
23 Streets, Defendant Fields stopped his vehicle. Fields then  
24 rapidly accelerated forward down Fourth Street in his vehicle,  
25 running through a stop sign and across a raised pedestrian

1 mall, and drove directly into the crowd. Fields's vehicle  
2 stopped only when it struck another stopped vehicle near the  
3 intersection of Fourth and Water Streets. Fields then rapidly  
4 reversed his car and fled the scene."

5 "As Fields drove into and through the crowd, Fields  
6 struck numerous individuals, killing Heather Heyer, as listed  
7 in Count One of the indictment, and causing bodily injury or  
8 attempting to cause bodily injury using his vehicle, a  
9 dangerous weapon, to the following individuals," who I will not  
10 list.

11 "Defendant Fields drove into the crowd because of the  
12 actual or perceived race, color, religion, and/or national  
13 origin of individuals in the crowd. And his actions in doing  
14 so were willful and included an attempt to kill."

15 The next exhibit -- two exhibits, Exhibits 204A and  
16 204B, they are an audio recording and a transcript of a  
17 telephone call between James Fields and his mother on  
18 November 22nd, 2017.

19 Matt, please play the recording and show the  
20 transcript to the jury.

21 (Recording played.)

22 Next exhibit -- two exhibits, 219 and 219A, an audio  
23 recording and a transcript of a telephone call between James  
24 Fields and his mother on March 21, 2018.

25 Please play the recording and show the transcript.

P. Simi - Direct

1 (Recording played.)

2 MR. MILLS: Your Honor, I move for admission into  
3 evidence the exhibits I just presented to the jury, and if I  
4 may approach I have a list of those exhibits to provide to the  
5 clerk to make sure they have all the numbers.

6 THE COURT: All right. They'll be admitted.

7 (Plaintiff Exhibits 03, 2, 3636, 3621, 3642, 3643,  
8 3622, 3624, 3626, 3628, 3629, 3574, 3631, 3573, 3577, 3579,  
9 3578, 3650, 3575, 3633, 3617, 3594, 3600, 3607, 3611, 3614,  
10 3613, 3596, 3587, 3586, 3588, 3590, 3591, 3592, 3593, 3595,  
11 3598, 3582, 3585, 3627, 3900, 3901, 3902, 3903, 3904, 3905,  
12 3622, 3906, 3907, 3908, 3610, 3909, 3612, 3615, 3589, 3608,  
13 3583, 3584, 3616, 3618, 1966, 3606, 0313, 317A, 3440, 3443,  
14 3444, 204A, 204B, 219 and 219A admitted.)

15 MS. KAPLAN: Your Honor, plaintiffs call to the stand  
16 Professor Pete Simi.

17 Your Honor, just as a preliminary matter, we have a  
18 handful of demonstratives that Professor Simi put together. We  
19 will not be moving to admit them, but we will show them to  
20 Professor Simi and to the jury. They're basically just bullet  
21 points.

22 PETER SIMI, PH.D., CALLED BY THE PLAINTIFFS, SWORN

23 DIRECT EXAMINATION

24 BY MS. KAPLAN:

25 Q Good morning, Professor Simi.

P. Simi - Direct

1 A Good morning.

2 Q Why don't you give your full name for the record? I  
3 apologize.

4 A Sure. Peter George Simi.

5 Q And, Professor Simi, what is your current job?

6 A I'm an associate professor of sociology at Chapman  
7 University.

8 Q And how long have you been at Chapman University?

9 A This is my fifth year there.

10 Q And where -- I apologize. Where is Chapman University  
11 located?

12 A It's in Orange County in southern California.

13 Q Before teaching at Chapman, did you teach somewhere else?

14 A Yes, I did.

15 Q Where was that?

16 A University of Nebraska.

17 Q For how long?

18 A 13 years.

19 Q And you mentioned that you were a professor of sociology,  
20 Professor. Again, I apologize for my ignorance, but how you  
21 define sociology?

22 A Broadly speaking, the study of human behavior and the  
23 study of society.

24 Q And within sociology, do you have a particular area of  
25 academic focus?

P. Simi - Direct

1 A Yes. Hate crime, hate groups, and domestic terrorism.

2 Q And how long have you been working in that field, sir?

3 A Since 1996.

4 Q Can you please describe your academic background for the  
5 jury, starting with college?

6 A Sure. I earned a bachelor's degree from Washington State  
7 University, a master's and a Ph.D. in sociology from the  
8 University of Nevada, Las Vegas.

9 Q In the course of your academic career, Professor, have you  
10 had occasion to publish peer reviewed academic articles?

11 A Yes, I have.

12 Q Approximately how many?

13 A Over 50.

14 Q Have you had occasion to write a book?

15 A Yes, I have.

16 Q Can you name that book?

17 A Sure. *American Swastika: Inside the White Power*  
18 *Movement's Hidden Spaces of Hate.*

19 Q Is this a copy of the book you wrote, sir?

20 A Yes, it is.

21 Q In addition to your articles, to the book, have you had  
22 occasion to consult with parties as a consultant or an expert  
23 in legal cases?

24 A Yes, I have.

25 Q And about how many times have you done that?

P. Simi - Direct

1 A About a dozen.

2 Q And just generally speaking, without getting into too much  
3 detail, Professor, what kinds of consultations or opinions have  
4 you been asked to give?

5 A I've been asked to assess issues related to hate crime and  
6 domestic terrorism, and in particular involvement in the white  
7 supremacist movement.

8 Q Were those criminal or civil cases?

9 A All of them were criminal.

10 Q And in those criminal cases, do you always conclude that a  
11 particular individual was associated with a white supremacist  
12 movement?

13 A No, I have not.

14 Q Have you ever testified in court before, Professor, as an  
15 expert witness?

16 A Yes, I have.

17 Q How many times?

18 A One time.

19 Q And in that case, on which side of the case did you  
20 testify?

21 A I was asked to work on that case by the prosecution.

22 Q And what was the defendant charged with in that case,  
23 again, just very generally?

24 A Sure. Two counts of murder and one count of attempted  
25 murder.

P. Simi - Direct

1 Q Were you qualified by the Court as an expert to testify in  
2 that case?

3 A Yes, I was.

4 Q And what were you asked -- what did you testify about?

5 A I was asked to assess the defendant's -- some of the  
6 defendant's statements prior to the crimes in question as to  
7 whether they were consistent with white supremacist beliefs.

8 Q And did you conclude that that was the case, Professor?

9 A Yes, I did.

10 Q And what was the verdict in that case?

11 A He was found guilty on all charges.

12 Q In addition to the articles, the books, et cetera, do you  
13 have occasion to give lectures or trainings about your  
14 expertise for various groups?

15 A Yes, I have.

16 Q And about how many of those have you done?

17 A Well over 100.

18 Q And can you, just -- again, given that it's 100, I don't  
19 want you to give me a list of a hundred people, but just give  
20 the jury a general sense of the kinds of groups that you've  
21 done those trainings for, given lectures?

22 A Sure. United States Congress, the FBI's National Training  
23 Academy at Quantico, the Federal Bureau of Prisons, Department  
24 of Homeland Security.

25 Q Now, Professor, I want to go back to your book for a



P. Simi - Direct

1 little bit.

2 What was -- it's called *American Swastika*, as you've  
3 mentioned. What's your book about?

4 A Broadly speaking, it's about the culture of the white  
5 supremacist movement, and in particular the central role that  
6 violence plays in it.

7 Q And how did you go about doing this book? Did you do  
8 research?

9 A Yes.

10 Q And what kind of research did you do?

11 A The term is ethnographic fieldwork.

12 Q And what does that mean, sir?

13 A Basically, ethnographic fieldwork is the idea that one of  
14 the most effective ways of learning about individuals or groups  
15 or cultures or communities is to go to them directly: Spend  
16 time with them, interact with them, observe them, conduct  
17 interviews with them. Really try and immerse yourself in their  
18 world and try and see things from their perspective as much as  
19 possible.

20 Q Have you prepared a slide, Professor, in connection with  
21 your testimony that summarizes the ethnographic fieldwork you  
22 did in connection with the book *American Swastika*?

23 A Yes, I have.

24 Q I'm going to ask Mr. Spalding to put up on the screen  
25 slide 1.

P. Simi - Direct

1 Professor, before I get there, have you heard of the  
2 phrase or the term "embedding"?

3 A Yes, I have.

4 Q Is that the same thing as ethnographic fieldwork, as  
5 you've described it?

6 A It is a term sometimes used to describe fieldwork, yeah.

7 Q Can you please explain to the jury the ethnographic  
8 fieldwork that you did in connection with your book *American*  
9 *Swastika* specifically?

10 A Sure. Starting in 1997, I started making contact with  
11 active members of white supremacist groups across the United  
12 States, primarily in the southwest to northwestern part of the  
13 US.

14 I was able to gain access to the individuals. They were  
15 willing to allow me to spend time with them. They would let  
16 me, in some cases, crash on their living room couch, or if they  
17 had a spare bedroom, they'd allow me to stay in the spare  
18 bedroom. So this really gave me an opportunity to really kind  
19 of see firsthand, up close, their activities, their daily life,  
20 allowed me and gave me an opportunity to attend larger  
21 gatherings, like cross burnings, swastika burnings, neo-Nazi  
22 music shows.

23 So I was really able to gain pretty substantial access and  
24 spend a lot of time, literally thousands of hours, in the field  
25 with individuals actively involved in white supremacist

P. Simi - Direct

1 groups -- as you can see here, it involved 45 house visits  
2 across multiple states -- and met with members across a wide  
3 range of different groups that are part of the white  
4 supremacist movement.

5 Q And is it fair to say -- I'm looking at bullet two -- that  
6 you conducted approximately -- well, not approximately -- 222  
7 interviews with 128 active and former members of the white  
8 supremacist movement?

9 A Yes, that's accurate.

10 Q Okay. Now, Professor, are you aware -- I assume you  
11 are -- that in this case there are a number of individual  
12 defendants who are alleged to be associated with white  
13 nationalism?

14 A Yes.

15 Q And in connection with this ethnographic fieldwork that  
16 you did, did you have occasion to meet directly with any of the  
17 individual defendants in this case?

18 A No, I have not.

19 Q Are you also aware, Professor, that in this case, as  
20 defendants, there are a number of groups or entities?

21 A Yes, I am.

22 Q In your ethnographic fieldwork that you've just been  
23 talking about, did you have occasion to meet with other members  
24 of any of those groups or entities?

25 A Yes, I have. Identity Evropa, the National Socialist

P. Simi - Direct

1 Movement, and Vanguard America.

2 MS. KAPLAN: Your Honor, I offer Professor Simi under  
3 Rule 702 to testify as an expert in the white supremacist  
4 movement and the culture of the white supremacist movement.

5 THE COURT: He may so testify.

6 MS. KAPLAN: Now, Mr. Spalding, if you could turn to  
7 slide 2.

8 BY MS. KAPLAN:

9 Q Professor Simi, if you could, could you please -- let's  
10 just start at the very beginning.

11 Can you explain what you mean when you say "the white  
12 supremacist movement"?

13 A Yeah, happy to.

14 I think it's really important to first start with the word  
15 "movement." What we're talking about here is really an  
16 organized effort to transform society by a collection of  
17 individuals and organizations. We're not talking about a  
18 random individual who may express a racist idea over the  
19 holidays with their relatives. We're talking about something  
20 very different than that.

21 This is, again, something that you think of, really, kind  
22 of three core elements here we're talking about. We're talking  
23 about organizations and individuals that share a culture, that  
24 have common strategies, and common goals.

25 So when you think about culture, of course, culture is

P. Simi - Direct

1 essentially what makes us human in many respects. Culture is  
2 the gel or the glue that binds us, all of us, individuals,  
3 together in some form or another. So the white supremacist  
4 movement is really organized around this common culture.

5 What you're not dealing with when we talk about the white  
6 supremacist movement is that it's not a central command  
7 structure. There's no CEO for the white supremacist movement.  
8 So what you have is something that's really bound together and  
9 organized through this common culture. And a central part of  
10 the common culture is the reliance and use of common  
11 strategies, not the least of which is the focus on the  
12 necessity and the effectiveness for using violence to achieve  
13 your goals.

14 In the case of the white supremacist movement, I would say  
15 the key goal is really the development of a white homeland, or  
16 sometimes referred to as an ethnostate.

17 Q What do you mean when you say "white ethnostate,"  
18 Professor?

19 A It comes in slightly different versions, varieties, but  
20 the general idea is that a geographic area within the United  
21 States, potentially the entire United States, but certainly a  
22 geographic area within the United States would be carved out  
23 and would be exclusively the domain of white people. In some  
24 versions, so-called -- the term they would use is  
25 "nonwhites" -- would be allowed to reside there, but in a very

P. Simi - Direct

1 formalized subordinate position or status.

2 Q Professor Simi, based on your fieldwork and your academic  
3 studies, do you believe that there are certain core  
4 characteristics of the white supremacist movement?

5 A Yes.

6 Q And I'm going to ask Mr. Spalding to flip to slide 3.  
7 Excuse me. I keep losing my voice. I apologize.

8 Are those the core or common characteristics you believe  
9 exist?

10 A Yes.

11 Q And can you please -- just very briefly, because we're  
12 going to spend most of your testimony talking about them, could  
13 you just briefly walk the jury through them?

14 A Sure, sure, just real briefly.

15 The first one, racist ideologies, you can think of that as  
16 essentially the foundation for the movement. It's the roadmap  
17 that provides them a way of looking at the world.

18 Second is the use and glorification of violence. Again,  
19 the violence, in many respects, is central in terms of the key  
20 strategy that they view as necessary to achieve the goals that  
21 they have for the movement. The violence, the glorification in  
22 particular, provides a certain kind of energy for the culture  
23 that we were just talking about.

24 And then third, front and backstage behavior and the focus  
25 on optics. One of the things that's kind of the most general

P. Simi - Direct

1 kind of findings about human behavior within sociology and  
2 other disciplines that study human behavior is that our  
3 behavior varies across different types of situational contexts.  
4 So sociologists use the terms "front and backstage behavior" as  
5 one way to try and understand how our behavior varies in  
6 different types of settings.

7 And then third is the tactic or strategy of creating or  
8 generating plausible deniability. The best way to think about  
9 plausible deniability is that, basically, it's an effort by an  
10 individual or an organization to preemptively kind of shield  
11 themselves from being blamed or held responsible for  
12 wrongdoing, including criminal conduct in some cases.

13 Q Now, Professor Simi, did you come up with these core  
14 characteristics on your own, or are these generally -- do other  
15 people in your field agree with you on this?

16 A Yes, they -- this is not something I came up with on my  
17 own. This is something that -- these characteristics exist  
18 within the wider study or field that looks at the white  
19 supremacist movement.

20 Q Now, I want to turn to this case, Professor.

21 Do you -- in this case, did you work alone, or did you  
22 work with someone else?

23 A I worked with someone else.

24 Q And who is that person?

25 A Professor Kathleen Blee.

P. Simi - Direct

1 Q And is she a professor somewhere?

2 A Yes, the University of Pittsburgh.

3 Q And what kind of work did you and Professor Blee do in  
4 this case?

5 A Well, in short, we reviewed a very, very large volume of  
6 different types of materials: Video, text, social media --

7 Q I'm going to interrupt you for a second, Professor, and  
8 put up a slide that I think you prepared of that.

9 If we could put up slide 4, Mr. Spalding.

10 Go on, Professor. I apologize.

11 A Oh, no.

12 As I was mentioning, we reviewed a substantial amount of  
13 material that included texts, emails, different social media  
14 platforms; in particular, a real substantial focus on Discord.  
15 Over 575,000 posts were analyzed as part of our analysis, as  
16 well as thousands of images.

17 We also reviewed deposition transcripts and trial  
18 testimony.

19 Q Now, Professor, how long have you and Professor Blee been  
20 doing this work in this case?

21 A In this case, we signed our letter of engagement in  
22 January of 2019.

23 Q And about how many hours did you devote to the work on  
24 this case?

25 A Approximately about 1,000 hours, thereabouts, each of us.



P. Simi - Direct

1 Q And after reviewing the materials that you just went  
2 through on slide 4, did you and Professor Blee form an opinion  
3 in this case?

4 A Yes, we did.

5 Q And what is that opinion?

6 A That the defendants relied on the core characteristics of  
7 the white supremacist movement when they organized the Unite  
8 the Right event in August of 2017.

9 Q Were you asked, Professor, you or Professor Blee, asked to  
10 give an opinion as to whether any defendant or group of  
11 defendants in this case engaged in a conspiracy to commit  
12 racially motivated violence?

13 A No, we were not.

14 Q And did you and Professor Blee create a report summarizing  
15 your opinions?

16 A Yes, we did.

17 MS. KAPLAN: Your Honor, may I approach?

18 THE COURT: Yes.

19 BY MS. KAPLAN:

20 Q Professor, is that the report that you and Professor Blee  
21 did in this case?

22 A Yes, it is.

23 Q Again, that's not admissible, so I'm just going to leave  
24 it there in front of you.

25 A Okay.

P. Simi - Direct

1 Q Now, before we get to the meat of your testimony, I want  
2 to talk about one preliminary matter, and that is the Discord,  
3 the 557,000 Discord posts that you talked about.

4 MS. KAPLAN: And, Your Honor, I apologize. I had  
5 intended to pass out binders to everyone, and I'm going to ask  
6 my colleague to do that now.

7 THE COURT: Go ahead.

8 BY MS. KAPLAN:

9 Q Now, looking at this slide, it says that you reviewed  
10 575,000 posts on Discord.

11 Let me begin by just asking the very basic question: What  
12 is Discord?

13 A Yeah, it's a communication platform that was originally  
14 developed primarily for online gaming. And since that time  
15 it's really expanded in terms of its usage by, you know,  
16 segments of the population more broadly.

17 Q And why did you review such a large volume of posts on  
18 Discord, Professor?

19 A Well, while not exclusively, UTR was, though, centrally  
20 organized on Discord.

21 Q And when you say "UTR," you mean Unite the Right?

22 A Yes. Yes.

23 Q And prior to this case, Professor Simi, had you had  
24 occasion to look at posts on Discord?

25 A Yes.

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1 Q And why is that?

2 A At some point I became aware that white supremacists had  
3 kind of started gravitating towards Discord to use for  
4 communication purposes. So as part of my more broad research,  
5 I've been following kind of the use of technology since 1996  
6 among white supremacists. And so, you know, as different  
7 platforms became more prominent among white supremacists,  
8 that's something I tried to keep track of and aware of.

9 Q And what's your understanding, Professor, of why white  
10 supremacists or members of the white supremacist movement kind  
11 of became attracted to Discord?

12 A I would say it kind of comes down to two main things.

13 One is that Discord is an encrypted platform, so it  
14 provides a degree of secrecy, privacy, and that's something the  
15 white supremacists are interested in, in terms of for  
16 communication purposes.

17 And then I would say the second aspect is because it was  
18 originally developed primarily for online gamers, that that was  
19 a large population that white supremacists saw for recruitment  
20 potential. And this is consistent with the white supremacist  
21 movement's history of trying to identify different subcultures  
22 that they can use, basically, for recruitment purposes, trying  
23 to immerse themselves in that subculture to some extent, and  
24 essentially try to recruit new adherents from that.

25 Q I'm now going to have Mr. Spalding put up a page from

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1 Discord. Very briefly, I just want you to walk through with me  
2 and kind of translate it for the jury, if you understand what  
3 I'm saying.

4 A Sure.

5 MS. KAPLAN: I'm going to ask Mr. Spalding to put up  
6 Plaintiffs' Exhibit 1166.

7 (Plaintiffs' Exhibit 1166 marked.)

8 THE WITNESS: Okay.

9 BY MS. KAPLAN:

10 Q Now, let's start at the top left corner.

11 A Okay.

12 Q It says in the top left corner, "Charlottesville 2.0"?

13 A Yeah.

14 Q What does that mean?

15 A So in the top left corner, "Charlottesville 2.0" is the  
16 name of the server. And if you think about it this way,  
17 Discord -- you have servers, and that's like the highest level  
18 organization, and then within a server you can have different  
19 channels, and then of course within the servers and channels  
20 you have users.

21 So it kind of goes three levels for Discord: Servers,  
22 channels, and then users.

23 Q You just led me to my next question, Professor, which is:  
24 Underneath "Charlottesville 2.0" there's a whole bunch of --  
25 kind of a column of words. What are they?

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1 A Yeah. So those would be names of different channels that  
2 are organized under Charlottesville 2.0.

3 Q And before we get to the channels, let me go back for a  
4 second.

5 In addition to the Charlottesville 2.0 server, did you and  
6 your colleague, Professor Blee, review other servers in  
7 connection with your work in this case?

8 A Yes, we did.

9 Q Okay. Now, going back to the channels: So when you look  
10 at it, several of these channels have geographic names  
11 associated with them. I think it says "Carolinas,"  
12 "California," "Florida"?

13 A Yep.

14 Q What's your understanding of what those channels were?

15 A Well, our understanding of that is that there was efforts  
16 as part of the organization to make sure and have as much  
17 geographic distribution as possible, in terms of trying to get  
18 as big a turnout and ensure that as many people from across the  
19 country who might be interested in attending were being,  
20 essentially, organized through these channels.

21 Q There are also some channels here, as I read it,  
22 Professor, that seem to correspond to the names of defendant  
23 entities in this case.

24 A That's right.

25 Q Do you see those?

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1 A Yes, I do.

2 Q Can you point out one or two of those?

3 A Sure. Traditionalist Worker Party is kind of towards the  
4 bottom there. It's fourth up.

5 Q And what's your understanding of what that channel was  
6 within the Charlottesville 2.0 server?

7 A Well, these are kind of organization-specific channels.  
8 They're not exclusively for those organizations, necessarily,  
9 but a lot of the discussions would be more specific to those  
10 organizations.

11 Q And am I correct, Professor Simi, that for some of the  
12 organizations -- I think Tradworker is probably a good example.  
13 They had their own server, Tradworker's server, and they also  
14 had channels within the Charlottesville 2.0 server; did I get  
15 that right?

16 A Yes, you did.

17 Q Now, it's my understanding, Professor, that we've prepared  
18 a chart. It's really more than -- it's just two pieces of  
19 paper -- that summarize all the servers and channels that you  
20 and Professor Blee looked at in this case; is that correct?

21 A That's correct.

22 Q And I'm going to ask Mr. Spalding to put that up just  
23 briefly. There's a lot of words on there?

24 A It's a lot of stuff.

25 Q And if you could go to the second page, too.

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1 Is that a true and accurate listing of the channels and  
2 servers that you and Professor Blee reviewed in this case?

3 A Yes, it is.

4 Q Let's go back to Plaintiffs' Exhibit 1166.

5 Let's move now to the right. And at the top of the middle  
6 on the right it says "leadership-discussion." What does that  
7 mean?

8 A So that would be the name of this particular channel,  
9 where this thread or conversation is happening beneath it.

10 Q And underneath that, just underneath that, there is a  
11 bolded language that says "Tyrone #4532." What does that mean?

12 A Well, so Tyrone #4532 would be a username, or sometimes  
13 referred to as a handle, for a person that's making those  
14 messages.

15 Q Am I have correct that on this page, there are a number of  
16 usernames or handles?

17 A Yeah, it looks like there's three or four.

18 Q Sitting here today, Professor, do you understand who the  
19 people are who are associated with these usernames or handles?

20 A Yes.

21 Q Can you just explain to the jury?

22 A Sure. Tyrone is Michael Chesny. Reinhard Wolff is  
23 Patrick Casey from Identity Evropa. Matthew Heimbach is  
24 somewhat self-explanatory. And Thomas Commander is Thomas  
25 Rousseau from Vanguard America.

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1 Q Now, could anyone on Discord post a message on the  
2 #leadership-discussion channel?

3 A No. Our understanding is that was an invite-only.

4 Q And what do you mean by "invite-only"?

5 A Well, one of the functionalities of Discord is that you  
6 can create some of the channels to be invite-only. So in other  
7 words, a person to join that channel would have to receive kind  
8 of a special invitation, basically.

9 Q And who has the ability to issue that kind of invitation?

10 A Our understanding is it's moderators and administrators.  
11 As part of their kind of administrative authority, that would  
12 fall under that.

13 Q And with respect to the Discord servers that you and  
14 Professor Blee looked at in this case, are you familiar with  
15 who the administrators or moderators were?

16 A Yes. We did become familiar.

17 Q And who, to the extent you know, who were those  
18 individuals?

19 A Our understanding is Mr. Kessler, Damigo, Kline,  
20 Mr. Parrott, Mr. Heimbach, and Mr. Ray.

21 Q Now, I want to go back to the core characteristics,  
22 Professor. And I'm going to ask Mr. Spalding to put up on the  
23 screen a slide -- I believe it's slide 6.

24 A Okay.

25 Q Could you walk the jury through what you mean by core



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1 characteristic 1 in terms of the opinion that you've given.

2 MR. CANTWELL: I'm sorry, I have to object here. Is  
3 leading allowed with an expert witness?

4 THE COURT: Well --

5 MS. KAPLAN: I don't think I led.

6 MR. CANTWELL: You're literally putting up a slide  
7 show for him to comment on.

8 THE COURT: It's proper to lead to bring things  
9 along, a preliminary question to get to the substance. It  
10 moves it faster.

11 MR. CANTWELL: Okay. Very good.

12 THE COURT: Go ahead.

13 BY MS. KAPLAN:

14 Q Professor Simi, could you just walk, almost like you're  
15 lecturing to students, but a lot briefer, could you walk the  
16 jury through this?

17 A I promise I'll be brief.

18 So as I mentioned earlier, the racist ideology, the way to  
19 think about this is kind of as a roadmap or a foundation for  
20 the white supremacist movement. And one of the key aspects of  
21 the racist ideology is that -- so for the perspective of the  
22 white supremacist movement, race is the central kind of  
23 organizing principle for understanding the world. And it's a  
24 very rigid way of defining race. So these are very rigid  
25 categories. There's no ambiguity here. Literally things are

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1 very cut and dry in terms of racial categories.

2 And they believe that essentially there are ingroups and  
3 outgroups, and that some racial -- the white race is  
4 essentially the ingroup and other racial groups would be  
5 defined as outgroups. Now, "ingroup" and "outgroup" sounds  
6 somewhat innocuous here. What's important to recognize is by  
7 outgroup, we're talking about the outgroups are associated with  
8 substantial kind of negative characteristics. They're viewed  
9 as enemies of sorts. So the term "racial enemy" is often used  
10 to describe outgroups. They're viewed as combatants of sorts.

11 They are described in ways -- for instance, Jewish people  
12 would be part of the outgroup, and they're described as  
13 essentially evil, corrupt, that they can't be -- they can't  
14 live among society. They basically contaminate society.

15 Blacks are viewed as also part of this outgroup and are  
16 viewed as inherently inferior, as prone to criminality. So  
17 we've heard a lot so far during the trial about the idea that  
18 blacks on average have lower IQs. This is again part of this  
19 idea of inferiority among aspects of the outgroup that's very  
20 prominent in their world view.

21 The ingroup, on the other hand, whites are kind of  
22 valorized, right, and seen as kind of leading to all the  
23 greatest scientific advancements and cultural breakthroughs and  
24 so forth. As you see on the slide here, the list of outgroups  
25 certainly extends beyond Jewish people and blacks. It's

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1 actually quite a long laundry list of folks that they view as  
2 adversaries and as threats in some form or another.

3 Q Professor Simi, there's been an awful lot of testimony in  
4 this case about these issues so I'm not going to belabor the  
5 point. I just want you to look at one exhibit, which is  
6 Plaintiffs' Exhibit 426.

7 A Okay.

8 Q Which was admitted yesterday, I believe. No, it was  
9 admitted earlier in the case.

10 And can you please explain to this -- to the jury how this  
11 exhibit reflects or is consistent with what you were just  
12 talking about?

13 A Yeah. I mean, this is a very grotesque illustration of  
14 exactly what we were just talking about. And so you see right  
15 at the very top a racial slur, the N word is used in bold, and  
16 then below that a paragraph where the additional slurs are used  
17 multiple times and variations of the N word. And also I would  
18 draw your attention to, in that paragraph, the way in which the  
19 language is treating black people in terms of almost describing  
20 them as being owned, as possessing a black. So there's this  
21 sense of kind of an association with slavery here that's kind  
22 of built in to this description.

23 In the middle of the image then you see this instrument  
24 that's being sold as part of this. And essentially it's a  
25 weapon of sorts where you have a sharp edge that's being used

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1 on one end and then a spot to hold a person's head on the  
2 other, and then you get the illustration of how this is to be  
3 used where you have a black person essentially in bondage.  
4 Their feet are tied, their hands are tied. The sharp  
5 instrument appears to be inserted into their rectum. Their  
6 head is placed -- confined in that. And what appears to be a  
7 family is standing by kind of holding, again, possessing,  
8 enslavement.

9 So all the things we were just discussing in terms of  
10 racist ideology pretty well captured in this image. And I  
11 should say that this type of image in my experience over the  
12 last 25 years is very prominent, very prevalent within the  
13 white supremacist movement, as you see this kind of graphic,  
14 grotesque, dehumanization of people that they consider to be  
15 part of the outgroup.

16 MS. KAPLAN: I know, Your Honor, it's time for the  
17 morning break. I have three more questions about this exhibit  
18 and then we can move on. Does that make sense?

19 THE COURT: All right.

20 BY MS. KAPLAN:

21 Q So Professor Simi, this document, for lack of a better  
22 term, this image is so out there, I have to ask you the  
23 question: Is this meant to be -- is imagery like this meant to  
24 be serious or is it just a joke?

25 A In my experience, looking at the white supremacist

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1 movement, their culture more broadly, this type of image is --  
2 while they may derive pleasure from it by looking at it and  
3 laugh and joke about it, it is meant to be taken also  
4 simultaneously very seriously and represents the kind of  
5 dehumanization that they believe is absolutely normal; it's  
6 natural to view blacks as inferior and needing this kind of  
7 treatment, subordination. So in that respect it's meant to be  
8 taken very seriously, and it is a sincere expression of their  
9 ideology within their culture.

10 Q Two more quick questions, Professor, and then we can break  
11 and move on. I couldn't help but notice that this is posted on  
12 Discord by Defendant Azzmador in the server Bowl Patrol, and in  
13 the channel if I got this right, #bowl\_nut\_gallery.

14 A Yeah, that's correct.

15 Q Do those phrases have any meaning?

16 A They do. The word "bowl" in different variations is used  
17 quite frequently and has been since 2015. And the reason for  
18 that is in 2015 Dylann Roof walked into a historic black church  
19 in Charleston, South Carolina and gunned down nine individuals  
20 who were trying to engage in their Bible study for that day.

21 Roof at the time, or at least in some of the images -- and  
22 I should say that Roof did that -- based on what he said, based  
23 on what he wrote, his manifesto, he did that as a way to help  
24 start the race war.

25 At the time, or at least at various points in time, Roof

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1 had what's sometimes referred to as a bowl haircut, kind of  
2 like square. And in the efforts to essentially kind of  
3 celebrate or valorize Roof's violence that day, the term has  
4 kind of caught on within white supremacist circles, within the  
5 culture. And so you'll see various references to bowl cuts,  
6 Bowl Patrol, so forth and so on.

7 Q If you were to see a collection of white nationalists  
8 chanting "roof, roof, roof," would that in your opinion,  
9 Professor, be a reference to Dylann Roof?

10 A I believe it would be.

11 MS. KAPLAN: It's okay to break now, Your Honor.

12 THE COURT: All right. We'll recess now for 30  
13 minutes -- 20 minutes.

14 **(Jury out, 10:32 a.m.)**

15 (Recess.)

16 **(Jury in, 10:56 a.m.)**

17 THE COURT: All right. You may be seated and  
18 proceed.

19 MS. KAPLAN: May I proceed, Your Honor?

20 THE COURT: Yes.

21 BY MS. KAPLAN:

22 Q Professor Simi, I'd like to now turn to common  
23 characteristic number two, glorification and use of violence.

24 A Okay.

25 Q And I'm going to ask Mr. Spalding to put up slide 7.

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1 Can you please, again, as a professor, explain to the jury  
2 what you mean by this?

3 A Sure. For the white supremacist movement, violence is the  
4 way they understand the world.

5 What I mean by that is that they view violence as  
6 necessary and natural. They view it as, to resolve conflict,  
7 it's required. So violence is very central to not only how  
8 they see the world, but to how they think actions need to be  
9 taken in terms of different courses of action and specific  
10 tactics. Violence is very central to that. And when you see  
11 the culture, you see substantial amounts of expressions related  
12 to violence. So you see it in slogans. You see it in key  
13 terms, codes, and so forth.

14 You also see very specific discussions of how to conduct  
15 violence; so, in other words, tactical discussions about the  
16 most effective ways to commit violence.

17 And then third is this aspect that celebrates Adolf  
18 Hitler, very central, very core to the white supremacist  
19 movement. Admiration of Hitler, I think, puts it mildly. It's  
20 really a reverence for Hitler. And so you see consistent use  
21 of images related to Hitler, references to Hitler, and just,  
22 frankly, a celebration of Hitler, Nazi Germany, and what they  
23 believe that Nazi Germany was able to accomplish, including the  
24 execution of the Holocaust.

25 Q Now, just a very brief detour about history, Professor.

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1 This use and glorification of violence as you just  
2 described it, does that go back in history in connection with  
3 the white supremacist movement in the United States?

4 A Yes. It really goes back to the very beginning.

5 So if we look at the origins of the US white supremacist  
6 movement and trace it back to the original founding of the Ku  
7 Klux Klan, which happened shortly after the US Civil War,  
8 during the Reconstruction era, the Klan and similar groups that  
9 formed were very much committed to violence. They utilized  
10 violence to accomplish their strategies.

11 That continued into the 20th century as the white  
12 supremacist movement grew and broadened. You continued to see  
13 a very central reliance and promotion of violence. And  
14 certainly that's continued into the 21st century.

15 Q I'm going to ask you now, Professor, about a number of  
16 words or phrases that the jury has heard a lot about in this  
17 case. You can be brief because, again, they've heard about it,  
18 but I just wanted to kind of get your expert take on them.

19 A Sure.

20 Q Let's start with white genocide theory, Professor. What  
21 is that?

22 A In a nutshell, it's the idea that the white race is on the  
23 verge of extinction due to a variety of forces at play, in  
24 particular what they call an international Jewish conspiracy,  
25 that has essentially orchestrated an effort to eradicate the



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1 white race. And in the near future, white people will cease to  
2 exist if the current trends continue.

3 Q And is that related to the idea of replacement theory?

4 A Yes. In many respects, I would say you could use those  
5 interchangeably.

6 Q And how does this idea of white genocide relate to this  
7 theme of violence?

8 A Well, if you believe that your people are on the verge of  
9 extinction, which they do, then they believe that violence is  
10 necessary -- it's a necessary course of action to prevent that  
11 from happening. They view violence as essentially self-defense  
12 to prevent white genocide from happening.

13 Q I'm going to put up a document that I believe came into  
14 evidence just this morning, Plaintiffs' Exhibit 3600.

15 A Okay.

16 Q And if you could, walk the jury through this document,  
17 Professor.

18 A Sure. Start with the RealGiantDad, the Twitter handle  
19 which is Mr. Fields, and notice that there is a tweet at  
20 Richard Spencer, and then a message: "Defending one's own  
21 people isn't a persecution of others. The white race has a  
22 right to exist." And then you see a visual image which appears  
23 to be a family of some kind with a child in the middle, text  
24 above that says "Love your race," and then text below that  
25 says, "Stop white genocide."

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1 Q What's going on here, Professor?

2 A Well, essentially you have this message that, if you love  
3 your race, you will certainly be committed to stopping white  
4 genocide, and then of course the subtext to stopping white  
5 genocide is that that requires the use of violence.

6 Q And given the imagery in this Twitter post, is there a  
7 kind of doublespeak going on here?

8 A In a way, you could say that, yeah, because at the top  
9 here you have this phrase "love your race," which some people  
10 might see that and say: Okay, well, that seems somewhat,  
11 maybe, innocuous. Then you have this family that looks like a  
12 happy family, nonthreatening. But then this part about "stop  
13 white genocide," which, again, for those in the know, they  
14 understand that to stop white genocide, that's a call to  
15 violence.

16 Q I want to ask about another similar phrase, 14 Words. And  
17 again, I don't want to belabor the point, because there's been  
18 a lot of evidence in this case about it. What are the 14  
19 Words?

20 A "We must secure the existence of our people and a future  
21 for white children."

22 Q Is the 14 Words a phrase or slogan that's used within the  
23 white supremacist movement?

24 A One of the most prominent.

25 Q And again, the jury has heard a little bit about this, but

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1 can you just explain who wrote them and who that person was?

2 A Sure. David Lane, who ultimately died in prison being  
3 convicted for involvement in domestic terrorism, he was a core  
4 member of the Silent Brotherhood, sometimes referred to as The  
5 Order, that was an active terrorist underground cell in the  
6 1980s. They assassinated Alan Berg, a Denver radio talk show  
7 host who was Jewish. They killed other people. They robbed  
8 armored trucks and so forth and so on.

9 David Lane penned that while he was in prison.

10 MR. REBROOK: Your Honor, there's a serious feedback  
11 issue occurring right now. I believe it has to do with the  
12 microphone.

13 THE COURT: Can you cut out whatever channel that is  
14 that's coming in on?

15 (Discussion off the record.)

16 THE WITNESS: I think that about wraps it up.

17 BY MS. KAPLAN:

18 Q In your work in general preceding this case in the white  
19 supremacist movement, have you had occasion to see use of the  
20 14 Words?

21 A Yes. Very much.

22 Q And did you see it used in the materials you reviewed in  
23 this case?

24 A Yes, absolutely.

25 Q And just generally speaking, how is it used? Like, where

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1 do you tend to see it?

2 A You know, it's very prevalent. So you'll see it in things  
3 like T-shirts, tattoos; you'll make references to it in music  
4 songs; you'll -- kind of greetings and salutations. People use  
5 it in their emails, or use it in their usernames in some cases.  
6 It's -- frankly, I would say it's ubiquitous within the white  
7 supremacist movement.

8 Q And what connection, if any, do the 14 Words have to the  
9 issue of violence?

10 A Very close, very strong, in the sense that "we must secure  
11 the existence of our people and a future for white children"  
12 suggests -- the subtext is that, in order to do that, violent  
13 means are necessary.

14 Q I'm going to talk about another phrase, a kind of meme  
15 that's come up in this case. And that's the Day of the Rope.

16 A Okay.

17 Q What's the Day of the Rope, Professor?

18 A It's a phrase that is pulled from the book *The Turner*  
19 *Diaries*. And *The Turner Diaries* was written by William Pierce,  
20 who founded the National Alliance. He was one of -- the  
21 National Alliance was one of the leading neo-Nazi organizations  
22 in the 1980s and '90s.

23 *The Turner Diaries* is -- essentially, the best way to  
24 describe it, I would say, is a white supremacist kind of  
25 fantasy futuristic novel that depicts a coming white

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1 revolution. And at some point during the coming white  
2 revolution, the white revolutionaries are able to gain kind of  
3 a stronghold in California, where they conduct what becomes  
4 termed "the Day of the Rope." It's a mass execution of what  
5 they call "race traitors"; that is, white people who have  
6 betrayed the white race or betrayed the cause.

7 In the book, it's politicians and journalists and white  
8 women who had engaged in interracial relationships. They're  
9 literally hung from -- in a mass style, hung from -- I believe  
10 it was lampposts in the book. And because of the popularity of  
11 *The Turner Diaries* within the white supremacist movement,  
12 including partly inspiring Tim McVeigh and the Oklahoma City  
13 bombing, because of the prevalence of *The Turner Diaries*, this  
14 term, the Day of the Rope, is really popular. It's a widely  
15 used kind of frame of reference and slogan of sorts.

16 Q Now, we already talked a bit about the white ethnostate,  
17 Professor. In terms of the white supremacist movement, how do  
18 they believe the white ethnostate is to be achieved?

19 A Largely, the idea is that violence is necessary to create  
20 the white ethnostate. There's some differences in terms of at  
21 what point, you know, this is going to happen, but largely the  
22 white ethnostate will require a major battle, offer referred to  
23 as "the race war."

24 Q I'm going to ask Mr. Spalding to put up another document  
25 that came into evidence this morning, Plaintiffs' Exhibit 3628.

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1 And if you could, walk the jury, Professor, through this.

2 A Sure. Again, NewGiantDad, Mr. Fields. The text is:

3 "Violence is the only solution. We have no other options.

4 Voting will solve nothing. The police and courts won't

5 convict."

6 Q What's going on here, Professor?

7 A Well, you have a very clear call to violence. The idea  
8 that, again, the system is so corrupt, things are so bad, from

9 their vantage point, that the only way to deal with this  
10 situation is through the use of violence, through a violent

11 revolution of sorts, to the point of really pointing out very

12 clearly that the current system in terms of voting, the current  
13 system in terms of the courts and police, are completely

14 ineffective, and so therefore that's why this revolution is  
15 necessary.

16 Q Now, another term that's come up a lot in this case,  
17 Professor, is "race war." Can you explain what that means  
18 within the context of the white supremacist movement?

19 A Yeah. I mean, it's their idea that a major, a great  
20 battle will occur between the races at some point in the  
21 future. It's a necessity, it's inevitable in many respects,  
22 and it's through the race war that, potentially, a white  
23 ethnostate could come.

24 Q What's the view on when this race war is going to occur?

25 A There's some -- I would say some variability there. You

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1 have some people actually say we're in the early stages,  
2 essentially, of the race war. You have some people, certainly,  
3 who focus on opportunities to fight, you might say, skirmishes  
4 or small battles in preparation for the race war. And then as  
5 far as exactly when the full-fledged race war will occur, it's  
6 somewhat ambiguous, you might say.

7 Q Now, the word "war," Professor, can be used in a lot of  
8 different contexts. For example, President Johnson had a war  
9 on poverty, as I recall.

10 How is the word "war" being used here?

11 A My understanding of studying this over the last 25 years  
12 is that this is not meant to be taken figuratively. This is  
13 meant -- the race war is described in very literal terms, in  
14 specific terms, in concrete terms. And it's celebrated, you  
15 know, the prospect, and the early battles are celebrated.

16 Q I'm going to ask Mr. Spalding to play a clip which is  
17 Plaintiffs' Exhibit 3349A. And I'll represent that it's a clip  
18 from Mr. Cantwell's podcast, The Radical Agenda, on August 7th,  
19 2017.

20 (Recording playing.)

21 Q Can you explain, Professor, what's going on in that?

22 A Well, there's quite a bit going on there, frankly.  
23 Certainly there's a call to violence, multiple times. There is  
24 reference to genocide. There's reference to gassing. There's  
25 obviously a clear expression of antisemitism. There is a

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1 mentioning of communism and that Jewish people are responsible  
2 for communism. There's a number of different themes kind of  
3 present in that short clip.

4 Q Now, you also hear in that clip, Professor, Defendant  
5 Cantwell laughing. Is this kind of juxtaposition between  
6 very -- how should I put it -- direct and radical language,  
7 juxtaposed with laughing, is that something that you commonly  
8 see within the white supremacist movement?

9 A Yeah. I mean, I can't tell you how many times over the  
10 last 25 years I've seen similar instances where violent  
11 references, violent rhetoric, is coupled with a type of joking  
12 or humor, really creating a type of double meaning, to where  
13 you have the expression advocating violence, but then cloaked  
14 with some reference to humor.

15 Q And you mentioned that in that clip you could hear  
16 Mr. Cantwell talk about Jews and talk about communists. Is  
17 there a link in the white supremacist movement between Jews and  
18 communists?

19 A Yes. Generally speaking, the white supremacist movement  
20 believes that Jewish people are responsible for creating  
21 communism.

22 Q I'm going to look at another document and I'll ask you to  
23 look at another document now, Professor. It's Plaintiffs'  
24 Exhibit 1060, which I believe was admitted this morning.

25 And if you would, Professor, in order to save time, could



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1 you just take the jury through this document and kind of  
2 explain what's going on and why it's relevant to your opinion?

3 A Sure. So it starts out on the first page with --

4 Q I think you need to go back to the first page,  
5 Mr. Spalding.

6 A -- with what appears to be a younger person holding this  
7 flag, and then that's followed by a link to Amazon for the  
8 purchase of a flagpole. And then you see on page 2 what ends  
9 up happening is a very kind of fairly in-depth discussion or  
10 conversation about the use of weapons, flagpoles, what makes  
11 for the best kind of weapon in terms of the length of flagpole.  
12 There's reference to an axe handle and its use as a weapon. So  
13 you get this really almost kind of mundane conversation or  
14 discussion about particularities as it relates to what makes a  
15 flagpole a good weapon.

16 At some point -- I believe it's on page 2 -- yeah, right  
17 in the middle here, you can see Tyrone says: "Are you trying  
18 to impale people?" So there's that reference, which then at  
19 the very end you get a very graphic visual image of what you  
20 might describe as mass casualty violence, in that all these  
21 people have been impaled on these appear to be long kind of  
22 posts, poles; spears of some kind, possibly.

23 And so you get the kind of, again, juxtaposition or  
24 combination of this very kind of mundane conversation about how  
25 to best use weapons and kind of tactical, then coupled with

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1 this very graphic imagery about mass casualty violence.

2 Q I should have asked this, but where is this conversation  
3 taking place?

4 A Yes, it's on the -- appears to be the Charlottesville 2.0  
5 server under the #flags\_banners\_signs channel.

6 Q And the kind of juxtaposition between where to go on  
7 Amazon to buy something and then this image that you just  
8 talked about, is that kind of juxtaposition something you  
9 commonly see within the white supremacist movement?

10 A Yes, it is.

11 Q Can you expound, explain?

12 A Sure. What we're dealing with here is a culture of  
13 violence when we talk about the white supremacist movement.  
14 It's not really all that different than a culture of violence  
15 you'd find with, say, the Mafia, organized crime, Al-Qaeda,  
16 ISIS, a longstanding conventional street gang in terms of its  
17 culture of violence.

18 So the culture of violence with the white supremacist  
19 movement, one of the things that a culture of violence needs to  
20 do is try and normalize violence. So these kind of  
21 conversations are important from a cultural standpoint in terms  
22 of helping normalize violence and make it seem kind of more  
23 common and mundane.

24 Q I'm going to show one more Discord discussion like that --  
25 I think it's like that -- and that is Plaintiffs' 1144 that I

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1 believe also came in this morning.

2 And can you explain that to the jury, Professor?

3 A Sure. It appears to be two bus-like vehicles that are  
4 driving through a large crowd of people. And there is a first  
5 message; just beneath the visual image there is a text that  
6 says, "This will be us," followed by a message -- another  
7 message from Tyrone saying, "I know NC law is on the books that  
8 driving over protesters blocking roadways isn't an offense.  
9 This is crossover for this channel and #VA-law" -- which, by  
10 the way, #VA-law is also another channel that's under the  
11 Charlottesville 2.0 server. So the --

12 Q Let me interrupt you for a second. What channel was this  
13 taking place in?

14 A This one is the #shuttle\_service\_information channel.

15 Q Please go on.

16 A Sure. So you get the -- kind of the back-and-forth  
17 between the channels in terms of where they're  
18 cross-communicating about issues, and this particularly  
19 referencing statutory issues as it applies to being able to run  
20 over people.

21 Let's see. Next -- yeah, so then this bleeds into the  
22 next page where you have this -- another Tyrone message: "Sure  
23 would be nice." And then this kind of visual image that has  
24 text at the top that says: "Introducing John Deere's new," and  
25 then you see this farm equipment displayed, and then below that

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1 it says "multi-lane protester digester." So you get a  
2 reference to this kind of vehicle which, obviously, if that  
3 were to be used would likely injure, if not kill, people if  
4 they were used on protesters.

5 And I believe the message below -- is there -- I believe a  
6 message about -- yeah, so then you get a response to that that  
7 says: "I'm renting a 15-passenger van and bringing a group  
8 from the SC/central NC area. We'll be arriving on August 11th  
9 and leaving August 13th. I'd like to volunteer our van for  
10 whatever it can be used for while we're up there. Most of us  
11 are staying at the NC Haus."

12 Q And let me just point out: Who is the person with the  
13 Discord handle MadDimension#8652?

14 A Jason Kessler.

15 Q And I have to say, Professor, it's kind of striking, the  
16 juxtaposition, again, here, talking about shuttles and vans and  
17 talking about running people over.

18 Can you explain that to the jury?

19 A Yeah, again, just to reiterate, this normalization of  
20 violence is really important. For any culture where violence  
21 is central, the more you can normalize it, the easier it is for  
22 members of that culture to commit violence.

23 Q Now, I want to touch very briefly on Adolf Hitler.

24 A Sure.

25 Q And you talked about that briefly, but why is Hitler so

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1 important in the white supremacist movement?

2 A Well, as I mentioned before, there's a real reverence for  
3 Hitler and, from their perspective, what they would say he was  
4 able to accomplish.

5 So they see Nazi Germany and the Holocaust as an  
6 accomplishment to be revered, to be admired, that he was a  
7 great, quote/unquote, "statesman" for his people. So in that  
8 respect, he's the type of leader that you want to try to  
9 emulate, and what he was able to do in Nazi Germany is  
10 something -- is kind of a model of sorts. It's a role model of  
11 sorts.

12 Q In the materials you reviewed with Professor Blee, did you  
13 see examples of this kind of reverence for Hitler in the  
14 Charlottesville 2.0 and other Discord servers, et cetera?

15 A Yes, we did.

16 Q Now, just a couple of days ago, Professor, Defendant  
17 Matthew Parrott testified, right where you are, that, while he  
18 admired Hitler, it was not for his policies, his racial  
19 policies toward the Jews; it was for his economic and social  
20 policies.

21 In your review of the materials -- let's start with the  
22 white supremacist movement generally -- have you seen a lot of  
23 evidence of people saying they just admire Hitler for his  
24 economic and social policies?

25 A No, I'm not familiar with that.

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1 Q And did you see any evidence of that kind of discussion in  
2 the materials you reviewed here?

3 A No.

4 Q Now, I'm going to show you a document that's been marked  
5 as Plaintiffs' Exhibit 409. And if you could just explain to  
6 the jury what they're looking at.

7 A Sure. So you get the visual image. It says, "Get in,  
8 loser" at the top. Then you have this image of Adolf Hitler  
9 and others who were part of Nazi Germany. And then it says,  
10 "We're invading Charlottesville," with an exclamation point.

11 And again, you know, just signifying this interest, this  
12 tendency within the white supremacist movement, to really want  
13 to associate images and ideas, and, frankly, themselves, to  
14 Adolf Hitler and Nazi Germany.

15 Q Just kind of a housekeeping question, Professor. What  
16 Discord server is this posted in?

17 A The server is -- see if I can pronounce it -- Latveria.

18 Q And the channel?

19 A Is #general.

20 Q And who posted it?

21 A Mr. Ray.

22 Q And is this one of the Discord discussions that you  
23 reviewed with Professor Blee in your work in this case?

24 A Yes, it is.

25 Q So is it fair to say that there are discussions about

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1 Charlottesville in other Discord servers outside of just  
2 Charlottesville 2.0?

3 A Yes, there were.

4 Q I'm going to go now to common characteristic three, and  
5 I'm going to ask Mr. Spalding to put up slide 8. And again, if  
6 you could kind of explain this to the jury, Professor.

7 A Sure. I mentioned earlier toward the beginning that one  
8 of the key findings, just in general, is that, you know, we  
9 don't all -- we behave differently in different situational  
10 contexts.

11 So if you think about a teenager, they may behave quite  
12 differently in front of their parents than they do with their  
13 friends. Okay? So sociologists use these terms "front and  
14 backstage" as a way to try to understand different contexts  
15 that may shape or influence our behavior and how we use those  
16 different contexts in different ways.

17 So with front stage, think about that as more of a public  
18 setting. So there would be -- front stage behavior would be  
19 occurring in more public settings, typically larger audiences,  
20 where you're trying to kind of present yourself in the most  
21 positive light. And that's the reference to optics, which is  
22 kind of the notion of kind of presenting a public relations,  
23 right, version.

24 Then with the backstage, think of that more in terms of  
25 kind of private settings where a person might kind of,

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1 quote/unquote, "let their hair down," and act in a way that may  
2 be quite different than on the front stage. They may feel much  
3 more kind of comfortable behaving in certain ways and they  
4 wouldn't feel as comfortable doing that on the front stage.

5 So, you know, you can think about optics and associate  
6 that with the front stage, and then more secretive  
7 communication and behavior would be more backstage.

8 Q Now, these terms, "front stage" and "backstage,"  
9 Professor, did you come up with them, or are they more widely  
10 used?

11 A No, they're much more widely used within sociology.

12 Q And is this distinction between front stage and backstage  
13 something that you believe is prevalent within the white  
14 supremacist movement?

15 A Yes, very much so.

16 Q And again, going back in history, can you give an example  
17 of this from at least 20th century history?

18 A Sure. If we were to go back to, say, the late '70s into  
19 the 1980s, there was an effort that was referred to as the  
20 "suits-and-tie approach" that involved folks like David Duke  
21 and others within the white supremacist movement who were,  
22 essentially, trying to present themselves in terms of their  
23 appearance in ways that kind of blended in more with the  
24 mainstream. They started using terminology like "white civil  
25 rights," "white heritage" as a way to try and promote the white



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1 supremacist movement so that it sounded less threatening, it  
2 sounded more innocuous. And so that would be a good example of  
3 what we're talking about here.

4 Q Are you familiar with the phrase, Professor,  
5 "organizational rebranding"?

6 A Yes. That would be a strategy where an organization, in  
7 this case, essentially tries to change their appearance in a  
8 way that they believe will be more successful or effective for  
9 presenting themselves.

10 Q And are you aware of an example of that within the white  
11 supremacist movement?

12 A Yeah. For instance, the National Socialist Movement at  
13 some point dropped the use of the swastika because they  
14 believed that, by doing that, it would help their appearance in  
15 terms of the more public realm; in terms of optics, frankly.

16 Q I'm going to ask Mr. Spalding to put up Plaintiffs'  
17 Exhibit 1410. And if you could, explain to the jury first what  
18 this document is, and then we'll talk about it.

19 (Plaintiffs' Exhibit 1410 marked.)

20 A Sure. It appears to be an email from Jason Kessler to  
21 Commander Schoep.

22 Q And Commander Schoep, who is that?

23 A Jeff Schoep.

24 Q Is he a defendant in this case?

25 A Yes, he is.

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1 Q And I would like to direct your attention to -- if  
2 Mr. Spalding could highlight the second full paragraph on the  
3 top email. Can you read that, Professor Simi, and explain  
4 what's going on?

5 A Sure. "The number one thing you guys can do is show up in  
6 plain clothes without flags or, quote, white supremacist  
7 symbols, ready to participate in and protect our event. There  
8 will be a thousand or more Antifa and shit libs eager to start  
9 violence."

10 Q So you were just talking about the National Socialist  
11 Movement. Does Jeff Schoep have a connection to the National  
12 Socialist Movement?

13 A Yes.

14 Q What's being discussed here?

15 A Sure. Well, you can see it's pretty -- in many respects  
16 straightforward in the sense that Mr. Schoep is being advised  
17 that you can show up, but we don't want you to show up with,  
18 quote, white supremacist symbols. In other words, we want to  
19 avoid the bad optics. We want to be able to present ourselves  
20 in a way that won't be immediately kind of associated with the  
21 white supremacist movement. So it's a way to kind of  
22 camouflage ourselves.

23 Q I want to go down to the email below. And I apologize; I  
24 think I've taken it in reverse order. I think that was the  
25 original email. Mr. Spalding -- I believe that was written by

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1 Jeff Schoep, correct?

2 A Yes.

3 Q And if Mr. Spalding could highlight the last sentence in  
4 the second paragraph, and if you could explain that.

5 A Sure. So it says, "Keep in mind, we have ceased use of  
6 the swastika as of November 2016. So you will see swastikas in  
7 some of the videos which were filmed before then."

8 Q So what's going on here?

9 A Again, this is actual direct reference to what I mentioned  
10 earlier about the NSM ceasing use of the swastika, again, for  
11 very explicit purposes in terms of optics, not because they had  
12 disavowed the swastika and what it's associated with in terms  
13 of Nazi Germany. In fact, you can see clearly that's not the  
14 case just by this email.

15 Q I'm going to ask -- I'm going to turn now to Plaintiffs'  
16 Exhibit 2777, but I don't want Mr. Spalding to put it up on the  
17 screen. And if you could just look at it in your binder, that  
18 would be helpful. Do you have your binder there?

19 (Plaintiffs' Exhibit 2777 marked.)

20 A I'm sorry, what was the number again?

21 Q Plaintiffs' Exhibit 2777.

22 A There we go.

23 Q Again, just answering my question here, Professor,  
24 limiting yourself to my question, what is this document? What  
25 does it say this document is?

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1 A The title of the document is "Operational Security for  
2 Right Wing Rallies."

3 Q Where was it published?

4 A *The Daily Stormer*. If I may?

5 Q Please.

6 A You'll notice, like I said, the title is "Operational  
7 Security for Right Wing Rallies." That's also a good example  
8 of what we're talking about here in terms of optics, front  
9 stage. *The Daily Stormer* is one of the leading neo-Nazi  
10 websites in the world, frankly. Very clearly not a generic  
11 right wing organization. And yet they use that term very  
12 specifically as, again, part of an optics kind of strategy or  
13 ploy.

14 Q And what's the date of this article?

15 A Appears to be July 31st, 2017.

16 Q Okay. Now, I'd like you to turn to page 2 of the  
17 document. And I just want to focus only on the first paragraph  
18 on page 2. And if you could read that and then explain what's  
19 happening.

20 A Sure. "Don't bring your usual phone. It might get stolen  
21 by Antifa or captured by law enforcement. And data on it might  
22 be used to identify or incriminate you. You and your boys  
23 should bring burner phones with brand-new accounts for group  
24 communication in a chat room created specifically and  
25 temporarily for that event only. Don't call" -- excuse me.

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1 "Don't call normie phones with your bad goy phone. Make sure  
2 it is a totally contained thing and that the buck stops there  
3 insofar as data trail."

4 Q Can you explain what's going on there, Professor?

5 A Yeah. So you have again just generally speaking a good  
6 example of the interest in communicating in secretive and  
7 private ways within the white supremacist movement. You see  
8 here a very specific reference to burner phones, which are  
9 phones that you may use for a short period of time and can  
10 discard and the usage can't necessarily be traced to you  
11 personally. So you get basically a directive of sorts to use  
12 burner phones, to be careful. So again, it's just underscoring  
13 what we would expect to see with the backstage type of  
14 behavior.

15 Q I'd now like to turn to Plaintiffs' Exhibit 1537, which is  
16 in evidence. You can put it up on the screen, Mr. Spalding.

17 And can you explain for the jury what this document is and  
18 what's going on here?

19 A Yes. It appears to be an email from Mr. Hill, from the  
20 League of the South, to, it looks like their staff.

21 Q And if you could just discuss what's happening in that  
22 first paragraph in the document.

23 A Yes. Would you like me to read the paragraph?

24 Q Sure.

25 A Okay. "Since the summer of 2015, the campaign of cultural

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1 cleansing against the traditional South has increased in its  
2 pace and ferocity. I will not --"

3 MR. JONES: Your Honor, I'm going to make an  
4 objection. The Professor has testified he has never met  
5 Michael Hill, he's never interviewed anybody from the League of  
6 the South, that he's never conducted any investigation or  
7 research in Virginia or the South. And I'm going to object to  
8 his foundation for knowing the meaning and content of this  
9 email.

10 MS. KAPLAN: I'm happy to respond to that, Your  
11 Honor, but I don't think that's a proper objection for expert  
12 testimony.

13 THE COURT: What's your question?

14 BY MS. KAPLAN:

15 Q Are you familiar with the organization League of the  
16 South, Professor?

17 A Yes, I am.

18 Q Have you studied it?

19 A Yes, we have.

20 Q Do you know who its leadership is?

21 A Yes.

22 Q Okay. Now, I'm just going to go quickly here, then,  
23 because I take the point about moving quickly. And let's go to  
24 the last sentence that begins "therefore."

25 A "Therefore, I want no discussion here or elsewhere online

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1 of any resistance strategies, tactics, logistics, plans,  
2 operations, or after action reports. Those will be handled  
3 through secure channels."

4 Q Is this consistent with your views about front-stage and  
5 backstage tactics?

6 A Yes, it is.

7 Q Can you explain?

8 A Again, clear directive that, as it relates to resistance  
9 strategies and such, that we want those handled on some type of  
10 back channels, a more secretive, protected, private way of  
11 communicating about these issues.

12 Q I'm going to move to slide 9, Professor, which is the last  
13 or the fourth core characteristic, and again, if you could walk  
14 the jury through that.

15 A Yeah, again, just kind of refresh. Plausible deniability,  
16 when we talked about that as a kind of key, core characteristic  
17 of the white supremacist movement, this is an effort by an  
18 individual or organization to essentially shield themselves  
19 from being blamed for wrongdoing, including criminal conduct.

20 And what we see with the white supremacist movement more  
21 broadly is a series of different ways that they try and  
22 generate plausible deniability. So first would be doublespeak,  
23 which can be described as an intentionally deceptive way of  
24 communicating. If you ever heard the phrase somebody speaking  
25 out of both sides of their mouth, that would be an example of

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1 doublespeak.

2 Lots of insider language and codes and specific references  
3 that would require kind of an insider's knowledge and  
4 contextual knowledge of that frame of reference.

5 We talked about joking and the use of humor earlier.  
6 That's certainly a key aspect by which they develop plausible  
7 deniability, because they can talk about violence, they can  
8 advocate for violence, and then say, well, it was just a joke.

9 And then lastly is this idea of triggering in order to try  
10 and provoke violence. Now, what we mean by triggering is  
11 instances where you have an individual or individuals who  
12 approach someone in a very hostile manner, using essentially  
13 harassment-style techniques, in order to try and generate an  
14 aggressive response on the part of that person, which would  
15 then allow the folks that are doing the triggering to respond  
16 with violence themselves, and then after the fact be able to  
17 claim essentially self-defense of some kind.

18 Q Now, is there one document that you and Professor Blee  
19 reviewed in this case, Your Honor -- excuse me, not Your Honor,  
20 Professor Blee, that best exemplifies common characteristic 4?

21 A Yes. We -- we believe *The Daily Stormer* style guide.

22 Q I'm going to ask Mr. Spalding to put that up on the  
23 screen. It's in evidence, Plaintiffs' Exhibit 2033.

24 I'm going to ask Mr. Spalding to turn to page 11 of that  
25 document, and to focus on exactly the paragraph that's up, the



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1 paragraph L-U-L-Z.

2 A Okay.

3 Q If you could kind of read that -- you don't have to read  
4 the whole thing out loud, but point out any important language  
5 and explain it to the jury.

6 You can highlight that, please, Mr. Spalding.

7 A "The tone should be light." I want to pop down to "the  
8 unindoctrinated should not be able to tell if we're joking or  
9 not." This is a really key statement in this passage here  
10 because they're really being very clear about this issue about  
11 doublespeak and using jokes with double meaning so that for  
12 people on the outside, they're not going to necessarily know  
13 whether it's a joke or not, but people on the inside understand  
14 that jokes are meant to be taken seriously in many respects  
15 within the white supremacist movement in terms of its messages  
16 advocating for violence.

17 It goes on to say, I'm making -- "I'm a racist making fun  
18 of stereotypes of racists because I don't take myself  
19 super-seriously." But then now this next statement is also  
20 especially important. "This is obviously a ploy" -- again,  
21 this is exactly what we mean here -- "and I actually do want  
22 to" -- excuse me -- "I actually do want to gas kikes. But  
23 that's neither here nor there."

24 So you get a very clear expression of how they're using  
25 these strategies, and also a clear expression about the

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1 violence that they want to commit.

2 Q I want to look at one more passage in that document,  
3 Professor. It's at page 15, the top sentence. I think it's a  
4 carryover, though, from the bottom of page 14, if Mr. Spalding  
5 wants to show the header.

6 If you could explain that to the jury, Professor.

7 A Sure. It says "It's illegal to promote violence on the  
8 Internet. At the same time, it's totally important to  
9 normalize the acceptance of violence as an eventuality or  
10 inevitability."

11 Again, this really frankly underscores exactly what we  
12 were talking about earlier in terms of the importance for  
13 cultures of violence like the white supremacist movement to  
14 normalize violence, right? And it's plain as day in that  
15 statement there.

16 Q I want to turn -- and I want to do this briefly because  
17 again it's come up a lot in the case -- use of code language,  
18 etc.

19 You heard used in the white supremacist movement the  
20 number 88?

21 A Yes.

22 Q And what is that supposed to refer to?

23 A Yeah, so it's a code that's used widely in the white  
24 supremacist movement. Eight -- or H is the 8th letter of the  
25 alphabet. So 88, HH, which stands for Heil Hitler.

P. Simi - Direct

1 Q And similarly 14?

2 A Yes. "We must secure the existence of our people and a  
3 future for white children."

4 Q And is the number 14 used in a similar manner?

5 A Yes, very much so.

6 Q And I'd now like you to take a look at -- I want to turn a  
7 little bit to joking and humor. I want to turn to Plaintiffs'  
8 Exhibit 562. Can you explain -- before you get to that, is  
9 this on Discord?

10 (Plaintiffs' Exhibit 562 marked.)

11 A Yes.

12 Q And what's the server?

13 A Alt-right.

14 Q And what's the channel?

15 A #general.

16 Q And who's doing the posting?

17 A Radical Agenda.

18 Q Do you understand that to be associated with an  
19 individual?

20 A Yes.

21 Q And who is that?

22 A Chris Cantwell.

23 Q And if you could talk about the message that's posted  
24 there.

25 A Sure. And again, I apologize for the language here. "If

P. Simi - Direct

1 you kill a Jew, the Jew in you dies with him I hear." And then  
2 parentheticals, "This is a tasteless joke, relax kike."

3 Q Is that consistent with what we looked at in the *Daily*  
4 *Stormer* style guide, Professor?

5 A Very much so.

6 Q Now, in terms of moving on to this concept of triggering,  
7 can we look at Plaintiffs' Exhibit 3432. And which server is  
8 this in?

9 (Plaintiffs' Exhibit 3432 marked.)

10 A The Discord stuff.

11 Q And the channel is #general?

12 A That's right.

13 Q Who's posting here?

14 A MadDimension.

15 Q And who is that handle associated with?

16 A Jason Kessler.

17 Q And could you read this and explain.

18 A Sure. "This was the doing of my group. We triggered this  
19 Jew into attacking one of our guys and charged him with  
20 assault."

21 Q Is this consistent with what you've been talking about,  
22 Professor?

23 A Yes, it is.

24 Q Can you explain?

25 A Sure. Again actually the very word "triggered" is used in

P. Simi - Direct

1 the statement as a strategy clearly that these individuals,  
2 Mr. Kessler and his group, were utilizing to try and  
3 essentially provoke this person into attacking them, and that  
4 that was then used to essentially charge that person with  
5 assault. So again, this is, again, kind of part of this  
6 strategy of being able to provoke people to the point of  
7 violence and then have this plausible deniability, this  
8 built-in self-defense.

9 Q One final document, Professor, Plaintiffs' Exhibit 955.  
10 And if you could just explain what this is, where it's being  
11 posted, and what's going on.

12 (Plaintiffs' Exhibit 955 marked.)

13 A Sure. This one is in Charlottesville 2.0 server. And  
14 it's under the #general channel. And it's posted by  
15 MadDimension, which again is Mr. Kessler. And the statement  
16 says, "I 100 percent agree with @SaintCharles. If you want a  
17 chance to crack some Antifa skulls in self-defense, don't open  
18 carry. You'll scare the shit out of them and they'll just  
19 stand off to the side."

20 Q Can you explain, Professor?

21 A Again, you get this specific reference, expression of  
22 wanting to commit violence, "if you want a chance to crack some  
23 skulls." So you get that. And then it's coupled with, but, of  
24 course, we want to do it in self-defense. So you get the  
25 qualifier included with the statement. Then you get a

P. Simi - Cross

1 discussion about how to best provoke them and that if you do  
2 open carry, you're likely to intimidate them to the point where  
3 a confrontation would be less likely. Of course the idea here  
4 is we want a confrontation. We want a confrontation to be most  
5 likely. So how do we go about doing that so we can then crack  
6 some skulls.

7 MS. KAPLAN: No further questions, Your Honor.

8 THE COURT: Cross.

9 MR. KOLENICH: Thank you, Your Honor.

10 CROSS-EXAMINATION

11 BY MR. KOLENICH:

12 Q Morning, Professor.

13 A Morning.

14 Q My name is Jim Kolenich. I represent Jason Kessler,  
15 Nathan Damigo, and the group Identity Evropa.

16 A Okay.

17 Q Do you recall testifying earlier about the participants in  
18 the #leadership-discussion channel?

19 A I do.

20 Q Do you recall who you identified as being in that  
21 discussion channel?

22 A As moderators or administrators?

23 Q As even participants, but go ahead. Did you identify  
24 moderators and administrators?

25 A That was part of the testimony.

P. Simi - Cross

1 Q Go ahead. Could you identify them again, if you recall?

2 A Sure. Mr. Kessler, Parrott, Kline, Heimbach, Ray, and  
3 Damigo.

4 Q Okay. Now, would these moderators and administrators also  
5 be participants in the #leadership channel?

6 A Yes, by definition.

7 Q So they would be in the #leadership channel somewhere,  
8 otherwise they wouldn't be moderators or leaders or  
9 participants, correct?

10 A If I understand your question, yeah.

11 Q You're identifying them as being in that channel because  
12 they posted somewhere in the channel; isn't that right?

13 A No. We're identifying them as moderators or  
14 administrators.

15 Q What would be the difference between a participant and a  
16 moderator?

17 A Well, a participant are the people doing the actual posts  
18 theoretically. I mean, you could, you know, have -- you could  
19 never participate -- if you created a server as an  
20 administrator, as a moderator, you might never post  
21 theoretically.

22 Q Where would we find this list of moderators on the  
23 Discord?

24 A We were able to determine to the best of our knowledge  
25 from either deposition testimony or essentially looking at the

P. Simi - Cross

1 posts in Discord, which sometimes basically would reveal who  
2 moderators and/or administrators were.

3 MR. KOLENICH: Your Honor, may I approach the  
4 witness?

5 THE COURT: Yes, sir.

6 BY MR. KOLENICH:

7 Q Sir, I'm handing you --

8 MS. KAPLAN: I just want to see.

9 BY MR. KOLENICH:

10 Q Professor, would you mind taking the device. It's owned  
11 by the Kolenich law office. No worries if you drop it.

12 A I won't drop it.

13 Q That is, Professor, would you agree with me, the  
14 #leadership channel from the Charlottesville 2.0 server?

15 A It does appear to be, yes.

16 Q Would you be kind enough to tell me if you find Nathan  
17 Damigo listed anywhere in that -- in the #leadership-discussion  
18 channel?

19 A You may have -- you may -- the moderators and  
20 administrators that we identified were across multiple servers.  
21 Not exclusively. So when I reference moderators and  
22 administrators and those specific names, they're not exclusive  
23 to Charlottesville 2.0. That would be across all of the  
24 different servers that we analyzed.

25 Q I see. I don't know that that was clear to me in your



P. Simi - Cross

1 earlier testimony. So Nathan Damigo may --

2 A I apologize if it wasn't clear.

3 Q Not a problem. You don't have to apologize to me,  
4 Professor.

5 You may have been referring to Nathan Damigo being a  
6 moderator or an administrator of the Identity Evropa channel?

7 A That's correct.

8 Q I'll retrieve my device now.

9 Your Honor, may I approach?

10 Professor, do you recall testifying about -- well,  
11 obviously you've testified about front-stage and backstage  
12 behavior; is that correct?

13 A That is correct.

14 Q And that is a relatively common sociological doctrine or  
15 theory?

16 A Term, yeah, that's used to describe different types of  
17 behavior.

18 Q Okay. Could you tell us how widespread is it in your  
19 profession to apply front-stage/backstage theory to white  
20 supremacists?

21 A Can you -- when you say widely, what does that mean?

22 Q Does anyone besides you apply it?

23 A Yes, it has been.

24 Q Are you referring to Professor Blee?

25 A No, beyond Professor Blee and myself. It's been --

P. Simi - Cross

1 Q Can you name the academics who apply it to --

2 A Sure. Mitch Berbrier at the University of Alabama has  
3 written fairly extensively on the white supremacist movement  
4 and its use of kind of front and backstage aspects and  
5 impression management, which is a related term to front and  
6 backstage.

7 Q I'm sorry, what was that, the second term you used?

8 A Impression management.

9 Q Could you define impression management, please.

10 A Sure. It's related to in front stage when, again, as I  
11 mentioned, tend to be more public. You're trying to manage --  
12 it's pretty straightforward. You're trying to manage the  
13 impression of others in terms of how they look at you, how they  
14 see you.

15 Q All right.

16 A Betty Dobratz also, Stephanie Shanks-Meile, and then  
17 Richard Mitchell is another person who has written on this  
18 topic about front and backstage behavior.

19 Q Thank you, Professor. I think those are sufficient  
20 examples. It's your testimony that all the academics you just  
21 mentioned apply front-stage/backstage to white supremacists?

22 A That is my testimony.

23 Q Thank you. Sir, how rigorous would you say the  
24 examination of white supremacists is within your profession?  
25 Is there a -- by that I mean is there objective standards that

P. Simi - Cross

1 you apply to reach your conclusions, or is it more fuzzy than  
2 that?

3 A No. It's based on social scientific research methods that  
4 are used throughout the discipline for the study of any topic,  
5 including the white supremacist movement. There's no special  
6 standards that are different for studying the white supremacist  
7 movement than studying any other issue that a sociologist might  
8 study.

9 Q Well, you've gone through various examples of ridiculously  
10 awful language that the white supremacists use, have you not?

11 A That seems fair.

12 Q But your ultimate conclusion is that this is used to  
13 communicate actual intent that wouldn't be obvious from the  
14 words used?

15 A It seems like, I mean, when you say intent, I would be a  
16 little bit -- I mean, I guess, what do you mean by that word?

17 Q Let me ask you. Is there any part of your opinion that  
18 deals with the intent of the speakers here?

19 A As it relates to what?

20 Q As it relates to anything, the intent to take action of  
21 any kind.

22 A Again, we were not asked to opine on the conspiracy  
23 specifically. So certainly not in that respect. What we found  
24 in our analysis and examination was that the conduct in terms  
25 of organizing UTR was consistent with the core characteristics

P. Simi - Cross

1 that have already been identified as it relates to the white  
2 supremacist movement.

3 Q Professor, are you familiar with any research on  
4 radicalization more generally?

5 A Yes. Very.

6 Q Are you familiar with the findings that very few persons  
7 considered radicalized actually engage in violent behavior?

8 A I'm familiar with that.

9 Q Could you speak in terms of percentages, how few people  
10 actually go on to violent behavior?

11 A No one could speak in that --

12 Q Can't be done?

13 A It can't be done.

14 Q But you would agree with "few"?

15 A What you're talking about as far as number of individuals  
16 who radicalize in terms of their attitudes and beliefs, you're  
17 going to have a portion of that who will radicalize in terms of  
18 committing violent action. So the number of people who have  
19 the radical attitudes or beliefs is certainly going to be  
20 larger than those who actually commit actual violent actions.

21 Q Now, is it the conclusion -- or is it your opinion,  
22 Professor, that having the beliefs inevitably leads to violent  
23 actions?

24 A We've never said inevitably.

25 Q Very well. Immersing yourself in the beliefs, I think you

P. Simi - Cross

1 testified earlier about a core characteristic of the belief  
2 system is white genocide or something like that?

3 A I guess I'm not clear on what your question is.

4 Q Well, if you have a belief that whites are being  
5 genocided, is it your opinion, is it what you're telling this  
6 jury that that would lead to you committing violent acts?

7 A It's not a simple, you have that belief and then you  
8 automatically commit an act of violence. But certainly the  
9 slogan, the 14 Words, the credo, the 14 Words is a call for  
10 violence. And certainly it would increase the likelihood for a  
11 person, if they felt deeply attached to and committed to the 14  
12 Words, it would increase the likelihood that they would be  
13 willing to engage in violent action.

14 Q How is the 14 Words a call for violence?

15 A "We must secure the existence of our people and a future  
16 for white children." The subtext of that, the widely known  
17 within the movement, is to do that, that requires violence.

18 Q Isn't it possible --

19 A As Mr. Damigo stated at one point --

20 Q Sorry, Professor, you answered my question.

21 A Okay.

22 Q Isn't it possible that -- I can't even repeat the 14  
23 Words -- I never remember them -- but "secure the existence,"  
24 "white children," isn't that possible that that means political  
25 revolution?

P. Simi - Cross

1 A Violent political revolution, is that what you mean?

2 Q No, I don't. I mean voting-based political revolution.

3 Have more white children, therefore take over the voting.

4 A I think it's clear, given the fact that the 14 Words was  
5 penned by a convicted terrorist who took part in the murder of  
6 multiple people and committed other violent crimes, that it's  
7 widely understand within the white supremacist movement that  
8 this is not about a peaceful transition in terms of electing a  
9 new official.

10 Q All right. Professor, you just testified that there's  
11 radicalized people, and few -- I think we agreed on the phrase  
12 "few" -- of those people actually go on to commit violence.

13 A No, actually I did not say a few. I said a portion that  
14 would be smaller than the larger number of folks who have the  
15 violent attitudes or beliefs. "Few" is I think inaccurate in  
16 terms of characterizing --

17 Q "A few" is an overstatement, but a smaller number than --  
18 less than half?

19 A I'm not willing to quantify it because literally not a  
20 person in the world could quantify it. I can't testify to  
21 something that --

22 Q You won't even say less than half?

23 A No, I can't do that. That would be inaccurate on my part.

24 Q Professor, are you an anti-fascist?

25 A Am I an anti-fascist?

P. Simi - Cross

1 Q That is correct.

2 A In other words, do I think fascism, like Nazi Germany and  
3 the Holocaust?

4 Q No. No. No. Are you a member of Antifa?

5 A You're asking me if I'm a member of Antifa?

6 Q That is correct.

7 A No, sir, I'm not.

8 Q Do you follow any Antifa accounts on Twitter?

9 A Well, if I -- I mostly follow white supremacist accounts  
10 on Twitter. I don't use Twitter personally. I use it as part  
11 of my research.

12 Q Understood.

13 A Are there Antifa accounts that I follow to gather  
14 additional information about white supremacist groups? That's  
15 possible, although I couldn't tell you that for sure right off  
16 the top of my head. But this all would be explicitly for the  
17 purpose of following white supremacists as part of my research.

18 Q What can you tell us about the group Antifa?

19 A Sir, not much.

20 MS. KAPLAN: Objection, Your Honor, that's beyond the  
21 scope. He's not an expert on Antifa.

22 MR. KOLENICH: He just testified he follows Antifa  
23 accounts as part of his research on white supremacy, which is  
24 directly within the scope of what he's here to testify about.

25 THE COURT: He hasn't said anything about his

P. Simi - Cross

1 expertise or anything -- he hasn't testified about Antifa.

2 MR. KOLENICH: I think it's permissible to  
3 demonstrate bias of an expert witness, though, Your Honor.

4 THE COURT: Well, you can demonstrate the bias, but  
5 he said -- if he's a member or something like that or follows  
6 the beliefs --

7 MR. KOLENICH: Right. He's denied he's a member. So  
8 I'm not asking him any further questions about that.

9 THE COURT: Sir? I'm sorry, I didn't --

10 MR. KOLENICH: I'm sorry, Your Honor. I'm not going  
11 to ask him any more questions about membership in Antifa.

12 THE COURT: Okay.

13 BY MR. KOLENICH:

14 Q Professor, have you stated that it is impossible not to  
15 choose a political opinion as an expert?

16 A Have I stated that?

17 Q Yes.

18 A You'd have to refresh my memory.

19 Q Well, we'll go with your memory for now, Professor.

20 A Could you restate the quote? Is that a quote?

21 Q I have a quote.

22 A Okay.

23 Q It's a quote given, allegedly, in a radio interview. I'm  
24 afraid I do not have the date of the radio interview handy.

25 The quote is: "Impossible not to choose a political opinion as



P. Simi - Cross

1 an expert, and that's not a bad thing," closed quote.

2 A I'd like to see that, if possible. "Impossible not to  
3 choose a political opinion," and then what was the rest of it?

4 Q -- "as an expert, and that's not a bad thing."

5 A And what's the -- can you give me a little bit of the --  
6 is this kind of just -- I mean, it seems like a statement.

7 What's the larger context of the conversation?

8 Q This was on a podcast. The name I have is -- well, the  
9 title of the episode, I guess, is "What do we know about hate?"  
10 I'm afraid that's the best I can do this morning, Professor.  
11 If you don't remember, you don't remember.

12 A No, I certainly don't remember that. I do a lot of  
13 interviews and podcasts and so forth, so...

14 Q Perfectly acceptable answer. Thank you.

15 Have you ever stated, sir, that your objective is  
16 dismantling groups like the alt-right groups that are  
17 defendants in this case?

18 A You know, I consider -- if you think about, like, a cancer  
19 researcher, cancer researchers certainly typically are  
20 interested in both prevention and intervention. So if you have  
21 somebody studying breast cancer or lung cancer, rarely is that  
22 person going to be completely dispassionate and not be  
23 concerned or care at all about how to prevent lung cancer or  
24 breast cancer, how to intervene, and how their research can  
25 help do that.

P. Simi - Cross

1 So am I interested in helping prevent and intervene in  
2 violent white supremacy in some small way through my research?  
3 The answer is absolutely yes.

4 Q So you've analogized white supremacy to cancer, and you  
5 put the --

6 A Researchers, the research part.

7 Q You slipped the word "violent" in there. So you only  
8 oppose violent white supremacy?

9 A The white supremacist movement, as the four core  
10 characteristics clearly indicate, violence is at the core. So  
11 it really isn't a thing that -- you can't really detach,  
12 dissociate the white supremacist movement from violence.

13 Q So you've discussed a few violent incidents. I believe  
14 you discussed Dylann Roof; is that correct?

15 A That's correct.

16 Q Which other specific violent incidents did you discuss  
17 today?

18 A You'd have to refresh my memory.

19 Q I was hoping you'd refresh mine.

20 A Do you want to talk about the violence in the white  
21 supremacist movement, how much occurs?

22 Q Go ahead. Please go ahead. Which other specific --

23 A We talked about the Silent Brotherhood, obviously, the  
24 underground terror cell that David Lane and the 14 Words was a  
25 part of.

P. Simi - Cross

1 Q David Lane is an inmate. Does that organization still --

2 A Well, he's deceased now.

3 Q He died in custody?

4 A He did.

5 Q Is that organization still extant?

6 A Oh, no. They've been defunct for quite some time. They  
7 were active in the 1980s.

8 Q Let's see if we can confine ourselves to organizations  
9 that still exist in some form or individuals that have -- such  
10 as Mr. Roof, that committed violent acts that these people  
11 might have ever heard of, these defendants in this case.

12 Do you have any specific examples of that?

13 A Well, I mean, obviously, David Lane --

14 MS. KAPLAN: Objection, Your Honor, that's a very  
15 broad question.

16 MR. KOLENICH: The Professor invited it. He said,  
17 how long would you like to talk about it?

18 MS. KAPLAN: The Professor is not engaged in a  
19 conversation.

20 THE COURT: He asked him, do you have any specific  
21 examples of organizations that still exist in some form or  
22 individuals such as Mr. Roof that committed violent acts that  
23 these people might have ever -- did you say "ever" or "never"  
24 heard of?

25 MS. KAPLAN: Can we have the question read back,

P. Simi - Cross

1 please? It's after little hard to hear from up there.

2 MR. KOLENICH: I'll withdraw the question. Thank  
3 you, Madam Court Reporter. We'll try it again.

4 BY MR. KOLENICH:

5 Q So you recall discussing Dylann Roof?

6 A Yes, I do.

7 Q And he shot up a church of worshipers who were African  
8 Americans?

9 A Yes, he did.

10 Q In fact, isn't it true that they invited him in, they let  
11 him sit down, they prayed with him --

12 A Yes.

13 Q -- and then he pulled out a gun and shot all of them?

14 A Yeah.

15 Q Now, Professor, forgive me, I'm struggling to understand  
16 what merely saying racist things online has to do with that  
17 behavior. What in the defendants' rhetoric even remotely  
18 suggests engaging in that level of depravity and fraud, looking  
19 these people right in the face for who knows how long and then  
20 shooting them?

21 MS. KAPLAN: Objection to form, Your Honor.

22 THE COURT: Overruled. You can answer the question  
23 if you can.

24 THE WITNESS: Celebrating the Holocaust, the  
25 slaughter of 12 million. Talking about gassing entire groups

P. Simi - Cross

1 of people, throwing the Turks in the ocean. I mean, do you  
2 want me to go on about some of the statements that are calling  
3 for mass gassing --

4 BY MR. KOLENICH:

5 Q The jury is well familiar with the statements these  
6 defendants have made. No party in this case is attempting to  
7 defend those statements on their face as reasonable things.

8 THE COURT: Don't -- you can ask him a question, but  
9 don't instruct him.

10 MR. KOLENICH: Yes, sir.

11 BY MR. KOLENICH:

12 Q Now, if I understand your point correctly, Professor, they  
13 discuss and appear to celebrate violence, and not only  
14 violence, but mass casualty events, perpetrated not only by  
15 individuals, but by governments; is that what you're trying to  
16 say?

17 A Yes. And then in addition to that, they also talk about  
18 violence in very specific terms and discuss very specific  
19 strategies and tactics. Again, what we know about violence  
20 from a threat assessment perspective is when you start really  
21 kind of making more specific references to places, people,  
22 dates, times, that typically suggests a greater degree of  
23 threat in terms of those statements. And we see quite a bit of  
24 very specific references in terms of how to commit violence.

25 Q Do you know anything about the First Amendment, Professor?

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1 A I'm not a legal scholar, but I'm generally as a general  
2 citizen familiar with the First Amendment.

3 Q Understood. I'm going to suggest to you that, no matter  
4 how violent the rhetoric, the law protects it. Will you accept  
5 that premise, since you're an expert witness and we can speak  
6 in hypotheticals?

7 A Okay. Can you restate that again?

8 Q No matter how violent the rhetoric, no matter how  
9 offensive the rhetoric, it is protected by the First Amendment?

10 A My understanding is that there is a threshold.

11 Q There are certainly limits, Professor. The First  
12 Amendment does not protect criminal conspiracies, obviously.  
13 It doesn't protect any kind of conspiracy --

14 MS. KAPLAN: This is a speech, Your Honor. It's not  
15 a question.

16 MR. KOLENICH: He asked for the limits. I'm giving  
17 him a hypothetical.

18 THE COURT: All right. Ask him the question.

19 MR. KOLENICH: Thank you.

20 BY MR. KOLENICH:

21 Q If I understand you correctly, you're citing a lot of very  
22 horrific rhetoric and then attempting to link that to an actual  
23 violent event; is that right?

24 A That's not our opinion. Our opinion is -- again, to  
25 restate it -- the defendants utilized the core characteristics

P. Simi - Cross

1 of the white supremacist movement in planning the August 2017  
2 UTR.

3 Q And the core characteristics of the white supremacist  
4 movement are horrific rhetoric, a horrific philosophy, and then  
5 what? Plausible deniability?

6 A I'll just give them to you again: Racist ideology,  
7 central role of violence, front and backstage, and plausible  
8 deniability. Correct.

9 Q Now, your explanation of plausible deniability was, if I  
10 recall correctly, that don't carry -- by way of example, "Don't  
11 bring guns because it will scare the Antifa away and we won't  
12 get to beat them up"; is that correct?

13 A That's correct.

14 Q But now, if you don't carry guns and if you don't initiate  
15 the contact and if the Antifa comes and attacks you, is it not  
16 legal, is it not lawful, to defend yourself?

17 MS. KAPLAN: Your Honor, that is beyond the scope.

18 THE COURT: That's beyond his --

19 MR. KOLENICH: Withdrawn.

20 BY MR. KOLENICH:

21 Q All right. Are you saying it is in any way part of the  
22 white supremacist movement, part of their violent ethic -- is  
23 that your opinion, that their violent ethic is induce the  
24 Antifa come to the event, induce the Antifa to attack us, so  
25 that we can hit them?

P. Simi - Cross

1 A Triggering and provocation is part of the white  
2 supremacist movement culture more broadly. It would also  
3 include targeting specific individuals, those that they believe  
4 associate with Antifa and otherwise.

5 Q Have you not stated, in fact, that there is a longstanding  
6 amount of hatred and conflict between Antifa and white  
7 supremacists?

8 A Could you be a little more specific and maybe refresh my  
9 memory?

10 Q Is that your opinion as you sit here today?

11 A That there is a longstanding conflict between -- well,  
12 various groups that espouse antiracism of various sorts --  
13 there is -- certainly you have Anti-Racist Action, Skinheads  
14 Against Racial Prejudice; these are all kind of predecessors  
15 that -- where there have been conflicts, that white  
16 supremacists see these folks as adversaries and antagonists and  
17 certainly, you know, have engaged in conflict with these folks.

18 Q Do the white supremacists see these folks you just  
19 mentioned as a threat?

20 A They believe that anyone who is not part of their cause is  
21 a threat, is an adversary, is an enemy.

22 Q A more particularized kind of threat, a threat that's  
23 going to physically assault them at their political rallies?

24 A They express that idea, certainly. That is something they  
25 talk a lot about, and you see this in their literature and so



P. Simi - Cross

1 forth.

2 MR. KOLENICH: Thank you, Professor. I have no  
3 further questions.

4 CROSS-EXAMINATION

5 BY MR. SPENCER:

6 Q Good afternoon.

7 A Good afternoon.

8 Q Professor, before this morning, have we encountered each  
9 other in person or through any kind of communication?

10 A Not to my knowledge.

11 Q Okay. Have you ever reached out as a means of doing an  
12 ethnographic study of me?

13 A No, I have not.

14 Q Okay. You've testified that the Unite the Right rally was  
15 centrally organized on Discord; is that fair?

16 A Although not exclusively, yes, a lot of the organization  
17 did happen on Discord. I think that's a fair statement.

18 Q Okay. And Discord, you've also characterized as a -- I  
19 think the word "secret" was used, a secret means of  
20 communication, or a secure means of communication?

21 A It has those features.

22 Q Okay. So that's what a straight dope is?

23 A Excuse me.

24 Q That's where you could find the straight dope, using a  
25 casual expression? Do you understand what I'm saying?

P. Simi - Cross

1 A I see what you're saying.

2 Q Not actual dope. You know what I mean.

3 That's where you could find backstage behavior and truth,  
4 so on?

5 A Different kinds of -- kind of more private, secure,  
6 secretive platforms, certainly you would see some degree of  
7 backstage behavior.

8 Q Some degree? Okay. Well, where --

9 A For example --

10 Q -- would there be more backstage?

11 A If you didn't think your platform was secure or private  
12 any longer, then of course that would change things, in terms  
13 of --

14 Q Fair enough.

15 A -- if you have thought it had been compromised, for  
16 example.

17 Q Fair enough.

18 What was my handle or username on Discord?

19 A We were not able to determine that to our knowledge. You  
20 know, obviously handles can be aliases, secretive. So we were  
21 able to determine some and not others. And so I have no idea  
22 whether you were using Discord or not.

23 Q Did you have -- do you have any reason to believe that I  
24 was involved in the Unite the Right server, or any related  
25 server, on Discord?

P. Simi - Cross

1 A No. Just the organization beyond Discord, certainly.

2 Q What does that mean, "the organization beyond Discord"?

3 A Discord wasn't the only way in which Unite the Right was  
4 organized. Certainly there were other communications happening  
5 between individuals such as yourself about the event.

6 Q I want to move briefly to some of the tweets that were  
7 brought into evidence that involve a Twitter handle that I  
8 presume is James Fields, and I have no reason to dispute that.

9 A Okay.

10 Q So when someone -- when you tag someone on Twitter or  
11 Instagram -- I think those are more or less the same thing --  
12 what are you doing, exactly? What happens when you simply put  
13 someone's handle in a public tweet that you make?

14 A Well, they're going to receive some type of notification.  
15 It would show up on their Twitter feed, if we're talking about  
16 Twitter, that so-and-so had tagged them in a message.

17 Q In the mentions?

18 A Yeah.

19 Q Yeah. Have you ever tagged someone, like a public  
20 figure -- like Donald Trump, Meryl Streep, whoever -- in your  
21 social media? Or is that something common, a lot of people do  
22 that?

23 A Yeah, you're asking the wrong person. I've never --  
24 literally never tweeted in my life.

25 Q Okay.

P. Simi - Cross

1 A But I'm familiar with --

2 Q You're familiar with that? Okay.

3 Was I -- during the summer of 2017, was I a public figure  
4 of some kind?

5 A Yeah, as a leader within the white supremacist movement.

6 Q Is it fair to say that a lot of people who were plugged  
7 into social media had read something about me and -- I hesitate  
8 to use the word "celebrity," exactly, but you know what I  
9 mean -- a public figure that someone might want to tag for a  
10 reason? Is that a fair statement?

11 A Yeah, it's fair to say that someone who's an adherent and  
12 involved in the white supremacist movement would admire your  
13 status as a leader and would like to communicate with you.

14 Q Do you have any knowledge of people well beyond the white  
15 nationalist movement tagging me often?

16 A I really can't answer that question. I'm sorry.

17 Q Fair enough.

18 Is someone who gets tagged in a message, are they in some  
19 ways responsible for the content of the message in which  
20 they're tagged?

21 A The person who is tagged did not write the message. So --

22 Q Thank you.

23 Mention was made of Dylann Roof during your testimony?

24 A Uh-huh.

25 Q In your research, or have you been -- have you become

P. Simi - Cross

1 aware of critical comments I've made about Dylann Roof?

2 A You'll have to refresh my memory.

3 Q I wrote a long article condemning him on a website that I  
4 edited. Does that -- you might not have read it, certainly,  
5 but does that surprise you?

6 A No, it doesn't surprise me.

7 Q Okay.

8 A It's a common strategy within the white supremacist  
9 movement, to --

10 Q Okay. That's enough. That's enough. Strategy, I guess.

11 During the summer of 2017, were you aware of any  
12 commentary I had on Zionism and the state of Israel?

13 A Can you be a little more specific?

14 Q Aware of, perhaps, a television interview that I did on  
15 Israeli television?

16 A Would you like to show me that?

17 Q I guess I could. I thought you might be aware of it. I  
18 could show that to you.

19 A Off the top of my head, no, I'm sorry. I apologize.

20 Q Oh, no, that's not your fault.

21 In your broad knowledge of me, do I usually go on --  
22 appear on Israeli television in order to insult and humiliate  
23 them?

24 MS. KAPLAN: Objection, Your Honor.

25 BY MR. SPENCER:

P. Simi - Cross

1 Q Have you seen me -- in your research, have you encountered  
2 any kind of television interviews that I've done?

3 A Yes, we have.

4 Q Do I engage in dehumanizing or insulting behavior?

5 A In some cases.

6 Q Okay.

7 A Would you like examples?

8 Q No. Are you aware of my efforts in publishing books?

9 A In publishing books? You'll have to tell me -- I mean,  
10 what's the specific question?

11 Q Are you aware of Radix or Washington Summit Publishers?

12 A Yes.

13 Q How do you understand those organizations?

14 A As generally part of this kind of universe of this  
15 movement, in terms of trying to produce certain kinds of  
16 literature, certain types of ideas on so-called "race realism,"  
17 emphasizing issues across a host of different --

18 Q Are you aware of Radix Journal?

19 A Yes.

20 Q Okay. Good. Are you aware of my publishing essays and  
21 entire books by Jews?

22 A Okay.

23 Q Well, are you -- "okay" is a little bit -- are you aware  
24 of that?

25 A I wasn't specifically aware of that prior to you saying

P. Simi - Cross

1 it.

2 Q Do names like Paul Gottfried or Byron Roth ring a bell?

3 A Yes, Paul Gottfried certainly.

4 Q He -- that rings a bell? Okay. Who is he?

5 A Someone you worked with earlier in your involvement, and  
6 somebody who -- you know, arguably, depending on who you ask,  
7 there's some question about the "alt-right" terminology, but  
8 certainly he was promoting this term early on.

9 Q By publishing essay collections by Jews and full-length  
10 books by Jews, was I attempting to dehumanize them?

11 A It's not necessarily a contraindication. Because you  
12 published something doesn't mean you still can't hold --

13 MR. JONES: Your Honor, I'm going to object. It was  
14 a yes-or-no question. We'll ask the Court to strike the  
15 answer.

16 MS. KAPLAN: It was not --

17 THE COURT: I don't think he's asking --

18 BY MR. SPENCER:

19 Q Is publishing --

20 THE COURT: Mr. Spencer was asking him his opinion of  
21 what Mr. Spencer was doing, and I don't think that's  
22 necessarily a yes-or-no answer.

23 BY MR. SPENCER:

24 Q Are you finished?

25 A Yeah, I don't think that that's necessarily an indication

P. Simi - Cross

1 of a lack of antisemitism because you published a person -- a  
2 Jewish author.

3 Q Well, I asked if that was an attempt to dehumanize anyone  
4 by publishing books?

5 A That publishing part, no. Not that specifically.

6 Q In publishing books -- so you are -- you've testified that  
7 you are aware of my publishing efforts?

8 A Yes.

9 Q What kind of audience do you think long, heavily footnoted  
10 academic books are aimed at, in your opinion?

11 A I guess I'm not 100 percent clear on what the question --  
12 what you're getting at with that question.

13 Q Who was I aiming to reach by publishing books that sold in  
14 the hundreds of copies and were, arguably, boring?

15 A People that would find the arguments and the topics and  
16 the points of focus of interest, obviously.

17 Q Was my -- do you think anyone got riled up by that -- that  
18 kind of --

19 MS. KAPLAN: Objection, Your Honor.

20 THE COURT: Sustained.

21 BY MR. SPENCER:

22 Q Are you aware of my so-called critical commentary on white  
23 genocide theory?

24 A You'd have to refresh my memory.

25 Q Are you aware that I -- are you aware that I have



P. Simi - Cross

1 criticized that kind of idea as false and unhelpful?

2 A I mean, that's -- I guess there's maybe some inconsistent  
3 things in your record on the idea.

4 Q You can't quite fit me into the box you want?

5 A Well, I mean, that's actually part of --

6 MR. SPENCER: No further questions. Thank you.

7 MS. KAPLAN: Your Honor, I think he should be  
8 permitted to answer the question. I understand that  
9 Mr. Spencer didn't like the answer that was coming, but he  
10 asked the question.

11 MR. SPENCER: I did like the answer he gave.

12 THE COURT: Okay. Is there a question hanging? Is  
13 this --

14 MS. KAPLAN: The question was: "You can't quite fit  
15 me into the box you want?" And then he cut Mr. Simi off. I  
16 think it's clear on the transcript.

17 THE COURT: Well, it's an argumentative question.

18 MS. KAPLAN: That's okay. I hear you, Your Honor.  
19 Thank you.

20 THE COURT: Okay. Mr. ReBrook wants to question.

21 MR. REBROOK: Yes, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. REBROOK:

24 Q Good afternoon, Professor Simi. My name is Edward  
25 ReBrook, and I'm the attorney for Mr. Jeff Schoep and the

P. Simi - Cross

1 National Socialist Movement.

2 A Good afternoon.

3 Q You mentioned ethnographic fieldwork. How long have you  
4 been conducting ethnographic fieldwork?

5 A Since 1997.

6 Q Okay. Over what time frame did you conduct ethnographic  
7 fieldwork with the National Socialist Movement?

8 A That would have been between 1997 and 2004, and then more  
9 recently as part of what's also -- it's similar to ethnographic  
10 research, but life history interviews with former members of  
11 various white supremacist groups.

12 Q Who specifically within the NSM did you conduct  
13 ethnographic fieldwork with?

14 A Are you asking for an individual's name?

15 Q Yes.

16 A Yeah, I'm sorry, as part of research we're bound by  
17 federal what are called Institutional Review Board regulations  
18 through the Department of Health and Human Services, and being  
19 able to -- you know, mentioning someone's name would be a  
20 violation of confidentiality regulations that are part of those  
21 sets of protocols and procedures.

22 Q I understand. Well, let me ask you more specifically --  
23 or more generally: Did you do any ethnographic fieldwork with  
24 any NSM members who were present at the Unite the Right rally?

25 A You know, that's not a question I could answer.

P. Simi - Cross

1 Q I'm not asking for a specific name. I'm just asking if  
2 you did any work with people that were at the rally.

3 A I don't know each person from NSM who attended the UTR  
4 rally. So that determination would be --

5 THE COURT: Well, do you know any person who was at  
6 the rally that you interviewed?

7 THE WITNESS: Not to my knowledge.

8 BY MR. REBROOK:

9 Q Okay. Did you read any postings from NSM defendants that  
10 were on the Discord?

11 A Now, keep in mind we have no way of knowing, in many  
12 cases, exactly who is and who isn't on the Discord. So giving  
13 you a blanket statement to that question would really not be  
14 necessarily possible because of that. So I guess I would say  
15 that first.

16 Q Okay. That's a fair answer. So, to your knowledge, were  
17 there any NSM members on the Discord?

18 A Well, again, that is not a question you can answer,  
19 because you have people on Discord who are using aliases and  
20 aren't necessarily indicating who they are. So, you know, it's  
21 a question that I really can't answer yes or no.

22 Q Okay. So you don't know; would that be fair to say?

23 A Yeah, that -- that's fair.

24 Q You mentioned backstage behavior. Did you witness any  
25 backstage behavior by NSM members in relation to the planning

P. Simi - Cross

1 of the UTR?

2 A Well, we discussed some emails as part of the testimony  
3 that are, I think, very good examples about the optics on the  
4 front stage that are being discussed in more private  
5 communication. So certainly those would be examples.

6 Q Okay. And you mentioned plausible deniability?

7 A Uh-huh.

8 Q Would actively seeking out the presence of law enforcement  
9 be considered an act that's in furtherance of plausible  
10 deniability?

11 A Can you be a little bit more specific?

12 Q Yes. Would going out of the way to make sure that police,  
13 specifically the Charlottesville police, were present for the  
14 Unite the Right rally, would that be an act that's in  
15 furtherance of plausible deniability?

16 A You know, I mean, again, I would say that that goes beyond  
17 what we're asked to do in this assignment in terms of our  
18 report and what we were looking at. And so, you know,  
19 communication with law enforcement and what role that did or  
20 didn't play is, again, not part of, really, what we analyzed  
21 and examined.

22 Q Perfectly fair answer, sir.

23 You mentioned impression management. Is impression  
24 management unique to white supremacist groups?

25 A No. It's a term that's used broadly to characterize human

P. Simi - Cross

1 behavior more broadly.

2 Q So is a person on a first date conducting impression  
3 management?

4 A That would be a good example.

5 Q Are you currently engaging in impression management?

6 A We all are.

7 Q Very good. Is it fair to say that you can definitively  
8 discern the meaning of words and phrases that might not be able  
9 to be discerned by a casual observer?

10 (Reporter clarification.)

11 THE COURT: Repeat the question, please.

12 BY MR. REBROOK:

13 Q Is it fair to say that you can definitively discern the  
14 meaning of words that a casual observer might not be able to  
15 discern?

16 MS. KAPLAN: Objection, Your Honor. I don't  
17 understand the question.

18 THE COURT: Well, if the witness understands the  
19 question, he may answer it.

20 THE WITNESS: It was a -- kind of a -- maybe if you  
21 did it one more time, it might be a little clearer. I'm not  
22 sure. It seems a little unclear.

23 BY MR. REBROOK:

24 Q What I'm asking, sir, is: Can you tell a deeper meaning  
25 of words and phrases used by, say, members of the white

P. Simi - Cross

1 supremacist movement that casual observers wouldn't understand  
2 the meaning of?

3 A Yes. I mean, that's part of the research methodology.  
4 That's part of the ethnographic fieldwork. That's part of  
5 immersing yourself in that world in order to try and develop a  
6 deeper understanding that would be very different than a casual  
7 observer. So, yes, very much.

8 Q Okay. So in your expert opinion, are there any words and  
9 phrases that white supremacists can say in public spaces that  
10 will guarantee violence?

11 A That will guarantee violence?

12 Q Yes.

13 A You know, that's -- that's a strong word, right? When  
14 you're saying guaranteeing. So the question is asking  
15 something that -- I don't know of any words that we could say  
16 would guarantee violence. I mean, that's like -- you're saying  
17 guarantee. I assume that to mean 100 percent certainty.

18 Q Okay. How about more likely than not?

19 A Well, I think certainly that's part of the triggering and  
20 the provocation is that white supremacists do understand that  
21 there are certain words that if they use those are more likely  
22 to generate, you know, more aggressive reaction on the part of  
23 those that they're targeting. So I think they do have a  
24 good --

25 Q Okay.

P. Simi - Cross

1 A Yeah.

2 Q That's a very good answer. Thank you.

3 A Sure.

4 Q With regard to triggering, is it your testimony that  
5 persons who are triggered are not responsible for their violent  
6 responses to other people's words?

7 A No, it is not, sir.

8 Q Okay. Is the concept of triggering in relation to white  
9 supremacists, is that different than, say, a wife beater  
10 claiming that his battered spouse provoked him?

11 MS. KAPLAN: Objection, Your Honor.

12 THE COURT: I think he can answer the question.

13 THE WITNESS: Apologies, but you're going to have to  
14 give me that one more time.

15 BY MR. REBROOK:

16 Q Okay. Is it your opinion that triggering, is that  
17 different than a wife beater claiming that his battered spouse  
18 has provoked him?

19 A The battered spouse has provoked him, is that different?

20 Q That the battered spouse triggered their beater?

21 A How do you mean a battered spouse triggered -- I'm not  
22 seeing --

23 Q I'm asking if a person who is beaten by their husband, are  
24 they responsible for that beating?

25 A Of course not.

P. Simi - Cross

1 Q You mentioned that violence is how white supremacists see  
2 the world. Can you tell how all groups see the world or just  
3 white supremacists?

4 A I guess I'm not following your question. I don't study  
5 all groups. I study the white supremacist movement. That's  
6 what I'm here to --

7 Q That's fair. That's fair.

8 Is violence an idea or an action?

9 A Is violence an idea or an action? There are violent  
10 actions and there are violent ideas.

11 Q Okay. And to your mind has anyone ever been harmed by a  
12 violent idea?

13 A I mean, I don't know if you want to get in the weeds here,  
14 but actually there is a line of research in the neuroscience  
15 that shows abusive words actually can have quite debilitating  
16 consequences in terms of neuro development, emotional  
17 development, psychological development. I'm not suggesting  
18 that -- anything legally in regards to that, but as far as  
19 scientifically, what we know, yeah, there is this line of  
20 research that does find that.

21 Q Okay. And is hate speech violence?

22 A Is hate speech violence? Hate speech often involves  
23 references to violence as far as using terms related to  
24 violence, both in terms of --

25 Q But is it violence in and of itself?



P. Simi - Cross

1 MS. KAPLAN: Again, Your Honor, he has to allow him  
2 to finish answering the question.

3 THE WITNESS: I thought I previously distinguished  
4 between violent ideas and violent action.

5 BY MR. REBROOK:

6 Q Okay. I'll accept that and move on. That's fine.

7 A Okay.

8 Q Okay. In your opinion is veneration of violence a  
9 uniquely white supremacist attitude?

10 A No, it's not. And I think I mentioned some other cultures  
11 of violence, like Al-Qaeda, ISIS, and so forth.

12 Q Would it be fair to say that Americans in general venerate  
13 violence?

14 A I guess you'd have to be a little more specific. I'm not  
15 sure I follow the question exactly.

16 Q Violent films, violent books, the number one writer for  
17 fiction novels in the United States is Dean Koontz, who writes  
18 about the murder of women. Is that a veneration of violence?

19 A Can you define veneration. I just want to be very --

20 Q Attraction to violence.

21 A There's certainly lots of movies and books that discuss  
22 violence, yeah, I would agree with you.

23 Q Do you have a rough idea of how many white supremacists  
24 were present at the Unite the Right rally?

25 A I've heard estimates.

P. Simi - Cross

1 Q Can you tell me what those estimates are?

2 A I've heard ballpark estimates between 3- or 400 up to well  
3 over 500. To be honest, though, I don't have a good way of  
4 knowing the accuracy of these estimates.

5 Q And have you heard any rough numbers on how many persons  
6 were physically harmed at that rally?

7 A I have certainly obviously heard of the fatality, and then  
8 I've -- I think I've heard not a specific number, but I've  
9 heard dozens in terms of individuals injured.

10 Q Okay. And specifically removing persons that were harmed  
11 by James Alex Fields, do you have a rough idea of how many  
12 people were injured apart from him, apart from his actions?

13 A I don't. I don't have an estimate to offer. I know there  
14 were injuries aside from --

15 (Overlapping speakers.)

16 THE COURT: You're talking over him, Mr. ReBrook.

17 THE WITNESS: I'm sorry.

18 THE COURT: No, you finish what you were saying.

19 THE WITNESS: What I was saying is I know there were  
20 injuries, but I don't have an estimate to offer as far as  
21 injuries outside of the car attack.

22 BY MR. REBROOK:

23 Q Did you research only counter-protesters who were injured?

24 A We didn't research injuries. That wasn't part of our  
25 assignment. So when I say I've heard dozens and that I know

P. Simi - Cross

1 there were injuries beyond the car attack, that really wasn't  
2 part of our assignment. I say that because of somebody who  
3 has, you know, followed what happened here in 2017 in a more --  
4 a general way, and then obviously as a researcher. But our  
5 assignment for this case in particular did not involve  
6 assessing numbers of injuries, who was injured or anything  
7 along those lines.

8 Q That's fair. Did you read any communications between  
9 James Alex Fields and Mr. Jeff Schoep?

10 A Again, you know, in some cases communications are  
11 happening and we're not aware. But to our knowledge, no.

12 Q You mentioned impaling people. In your research did you  
13 discover that any people at the Unite the Right rally had been  
14 impaled?

15 A I am not aware of any people being impaled at Unite the  
16 Right.

17 Q Are you aware of any people at Unite the Right being  
18 injured by John Deere farming equipment?

19 A Not to my knowledge.

20 Q As part of your research into white supremacist groups,  
21 did you specifically have to deceive people within those  
22 groups?

23 A Can you be a little more specific?

24 Q In your book, *American Swastika*, did you say that you  
25 snickered at racist jokes that you personally found appalling?

P. Simi - Cross

1 A Yes. That's true.

2 Q I have no further questions. Thank you, Professor.

3 A Thank you.

4 THE COURT: Thank you. We'll recess now for lunch  
5 until 1:35. And do not discuss the case with anyone or allow  
6 anyone to discuss it with you or remain within hearing of  
7 anyone discussing the case. And we'll recess now till 1:35.

8 **(Jury out, 12:33 p.m.)**

9 (Recess.)

10 THE COURT: All right. Was there something to come  
11 up beforehand, before we call the jury?

12 MS. KAPLAN: It's okay, Your Honor.

13 MR. CANTWELL: Have we called the jury yet?

14 Something I want to bring up very quickly. They brought up --

15 THE COURT: Wait.

16 MR. CANTWELL: I'm sorry.

17 THE COURT: Was there something before --

18 MR. CANTWELL: There's something that came up --

19 THE COURT: No. I thought that --

20 MS. KAPLAN: There was an issue that I brought up  
21 with Your Honor's law clerk about potential impeachment that  
22 Mr. Smith might have used or intended to use with respect to  
23 Liz Sines who we hope will testify this afternoon, and making  
24 sure he's aware that would violate the Court's motion in limine  
25 order. But I don't think we need to address it unless Your

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1 Honor wants to.

2 In other words, Mr. Smith designated testimony to  
3 impeach Liz Sines that is about Your Honor's law clerk that is  
4 directly contrary to Your Honor's motion in limine and order on  
5 that subject. I wanted to make sure he's aware, since he's on  
6 the phone, I didn't want it to just be blurted out.

7 MR. SMITH: I wasn't planning on actually  
8 cross-examining Ms. Sines. So I don't think it's an issue. I  
9 don't really know why that was in there. Sorry about that.

10 MS. KAPLAN: Terrific, Your Honor. No issue then.

11 MR. CANTWELL: The thing I wanted to bring up --  
12 Christopher Cantwell -- is in the operative complaint, the  
13 plaintiffs claim that the "woof woof woof" noises were barking  
14 like dogs, and they seem to have changed the allegation in  
15 their questioning of their expert witness, claiming that this  
16 is chanting of Dylann Roof. And I am not sure if that is  
17 proper or if there's a jury instruction or --

18 THE COURT: The witness testifies and the jury -- it  
19 doesn't make any difference. The opening statements are not  
20 evidence.

21 MR. CANTWELL: This is not about the opening  
22 statements. This is about the operative complaint. It's my  
23 understanding --

24 THE COURT: Oh, the complaint.

25 Well, the witness can testify. He's not bound by

P. Simi - Cross

1 anything in the complaint.

2 MR. CANTWELL: Very good.

3 THE COURT: Call the jury.

4 MS. DUNN: Your Honor, we did have one issue that we  
5 should handle -- that we believe we should handle at sidebar.

6 THE COURT: We'll do that while the jury is coming  
7 in.

8 (Sidebar commenced.)

9 MR. MILLS: Your Honor, this is a very specific  
10 issue. We wanted you to be aware that Mr. Kessler -- we have  
11 talked to Mr. Kolenich about this and I don't think he's in  
12 disagreement, but he's here and he has copies. Mr. Kessler has  
13 been tweeting every day, which is fine, about what's happening  
14 in the courtroom. We have a very specific issue, which is that  
15 he has accused three witnesses specifically of perjury in  
16 publicly issued tweets. And we just think that that can't be  
17 appropriate for a party in this case, especially while a  
18 witness is still testifying or before the jury has begun  
19 deliberations.

20 THE COURT: All right.

21 MR. KOLENICH: Jim Kolenich, Your Honor, for  
22 Mr. Kessler. They did show me the tweets. I did verify with  
23 Mr. Kessler that he posted them and he has either removed them  
24 or reworded them at this time.

25 THE COURT: All right. Instruct him that he's not to

P. Simi - Cross

1 comment on the veracity of any witness until after the case is  
2 over. Say what he likes, but not when the jury -- we're not  
3 locking the jury up at night. It's not appropriate, because we  
4 don't know how -- what could get out. We don't -- it's just  
5 not appropriate. So no one should be commenting about the  
6 witnesses' testimony at this time.

7 MR. KOLENICH: Understood, Your Honor. Thank you.

8 MR. MILLS: Thank you, Your Honor.

9 (End sidebar.)

10 THE COURT: All right. You may -- yes, sir. Thank  
11 you.

12 MR. CAMPBELL: Thank you, Your Honor.

13 CROSS-EXAMINATION

14 BY MR. CAMPBELL:

15 Q Good afternoon, Professor Simi.

16 A Good afternoon.

17 Q I represent James Fields. And in that regard, I believe  
18 you had testified earlier that it was clear the majority of the  
19 planning was done on Discord. Did I understand that correctly,  
20 sir?

21 A Yes, a large portion.

22 Q Not all of it?

23 A Yeah.

24 Q And the planning was centrally located on Discord I think  
25 may have been the phrase.

P. Simi - Cross

1 A That sounds fair.

2 Q Are you aware of any Discord post in any way related to  
3 Unite the Right authored by anyone even alleged to have been  
4 James Fields?

5 A We know Mr. Fields had an account on Discord. And so  
6 without knowing what the handle is, I really can't answer that  
7 question.

8 Q Fair to say you're not aware of any post that was authored  
9 by James Fields on Discord about Unite the Right?

10 A Yeah, I don't know because --

11 Q Don't know one way or the other?

12 A Yeah, exactly.

13 Q Fair enough. Professor, how about tweets? Did you review  
14 any tweets authored by James Fields about planning Unite the  
15 Right?

16 A Specifically about planning Unite the Right?

17 Q Yes, sir.

18 A No, we did not.

19 Q How about Instagram posts? Similar to how I believe you  
20 testified, I'm rather unfamiliar with social media, but did you  
21 review in the course of preparing to give your expert opinion  
22 in this case any Instagram posts authored by James Fields that  
23 relate to planning Unite the Right?

24 A No, we did not.

25 Q And would you agree with me, Professor, that not knowing



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1 one way or the other whether James Fields posted on Discord  
2 could not be a basis for an expert opinion that he planned or  
3 helped plan Unite the Right?

4 A Keep in mind our opinion here, you know, as far as our  
5 assignment, is not relevant in terms of conspiracy. We're  
6 looking at the defendants and their involvement in terms of how  
7 Unite the Right was planned, their involvement in the culture  
8 of the white supremacist movement.

9 Q Yes, sir.

10 A You know, our opinion is that we found that the defendants  
11 utilized the tactics in terms of the core characteristics of  
12 the white supremacist movement.

13 Q Yes, sir. I believe your testimony earlier, though, was  
14 defendants organized Unite the Right. So my question pares  
15 that down to what is the basis for an opinion, if you hold that  
16 opinion, that Fields organized Unite the Right?

17 MS. KAPLAN: Objection, Your Honor. Foundation. I  
18 don't think that was exactly the testimony.

19 THE COURT: He can clear it up. Just to get it  
20 clear.

21 BY MR. CAMPBELL:

22 Q Did you testify earlier defendants organized Unite the  
23 Right?

24 A I said that the organization of Unite the Right was  
25 consistent with the core characteristics of the white

P. Simi - Cross

1 supremacist movement.

2 Q Okay. So you do not hold the opinion that Fields  
3 organized or helped organize Unite the Right?

4 A Can you restate the question?

5 Q Yes, sir. So you don't hold the opinion that Fields  
6 helped organize the Unite the Right rally?

7 A That wasn't our assignment.

8 Q Okay. You're not here to offer that opinion maybe is a  
9 better way to put it?

10 A Okay. That's fair.

11 Q Thank you, sir.

12 And sir, do you agree with my assessment that tagging  
13 someone in a tweet is not communicating with them; it is  
14 attempting to communicate with them?

15 A I think that's debatable.

16 Q Okay. Well, wouldn't -- so in order to communicate with  
17 someone you tagged in a tweet, you'd have to know more as to  
18 whether that person ever did anything in response to a  
19 notification, ever opened a link, ever looked at anything,  
20 right?

21 A Yeah, without that information, that is hard to determine.

22 Q There's just an attempt to communicate with someone,  
23 correct?

24 A It's, yeah -- it may have been communication, though.

25 Without additional information you just wouldn't be able to say

P. Simi - Cross

1 one way or the other really.

2 Q Yes, sir. Absolutely fine.

3 So it is clear from the evidence that was shown in this  
4 case, and some of which you looked at and commented on today,  
5 but also other evidence in the case, that Mr. Fields tweeted at  
6 Richard Spencer with what I would characterize as kind of  
7 general Nazi tropes, that sort of thing.

8 So I'm just asking your opinion. Is repeatedly posting  
9 Hitler photos and that sort of thing, is that front-stage or  
10 backstage?

11 A Repeatedly posting Hitler photos, as far as where?

12 Q So for example, the one tweet that I specifically recall  
13 you commenting on in this case was the white family and  
14 reference to "our children," that kind of thing that I think  
15 you had testified was kind of a typical Nazi-type trope with  
16 undercurrents and that sort of thing, right?

17 A Uh-huh.

18 Q Okay. And so if you're posting Nazi emblems, Nazi  
19 slogans, pictures of Hitler, is that front-stage or backstage?

20 A It would depend on the -- it would depend on the context  
21 as far as the social media platform, who the audience was. It  
22 would also depend on the specific message or images, because as  
23 in the example that you used, that one to outsiders might not  
24 necessarily appear to suggest association or involvement in the  
25 white supremacist movement, or any indication about advocacy

P. Simi - Cross

1 for violence. But to insiders, it would.

2 So sometimes front and backstage, there is a -- there is  
3 nuances in terms of it's not a rigid distinction that can  
4 always be made that something is clear front and clear  
5 backstage, that we're talking about these different aspects of  
6 behavior that, depending on the context, you know, whether you  
7 determine it to be front or backstage would depend.

8 Q Fair enough. Thank you, Professor. But pictures of  
9 Hitler, that's not backstage, right?

10 A No, that would not be -- no, that would not be typically,  
11 as you say -- front stage or backstage?

12 Q I said it would not be backstage?

13 A Yeah. That's fair.

14 Q Just a couple more questions, sir. Prior to August 12th,  
15 I know you had said that even before being retained in this  
16 case you already were studying and kind of keeping your eye on  
17 this area. Is that a fair characterization?

18 A Can you be a little more specific about, when you say  
19 "area"?

20 Q White supremacy, white nationalism.

21 A Sure, since 1996.

22 Q Yes, sir. So prior to August 12, 2017, had you heard of  
23 Richard Spencer?

24 A Sure. Yes.

25 Q Had you heard of Nathan Damigo?

P. Simi - Cross

1 A Yes, I had.

2 Q Had you heard of Christopher Cantwell?

3 A Yes, I had.

4 Q Had you heard of Jeff Schoep?

5 A Yes, I had.

6 Q Had you heard of Matt Heimbach?

7 A Yes, I had.

8 Q Had you heard of David Parrott?

9 A Yes, I had.

10 Q Had you heard of Jason Kessler?

11 A Prior to Unite the Right?

12 Q Yes, sir.

13 A Probably not.

14 Q How about Azzmador Ray?

15 A Yes, I had.

16 Q Heard of him? How about James Fields?

17 A No, I did not.

18 MR. CAMPBELL: Thank you, sir. I don't have any more  
19 questions.

20 THE COURT: All right. Thank you.

21 CROSS-EXAMINATION

22 BY MR. JONES:

23 Q Good afternoon, sir. My name is Bryan Jones. I represent  
24 Michael Hill, Michael Tubbs and the League of the South.

25 MS. KAPLAN: You might want to take that document

P. Simi - Cross

1 down. There's a document on the screen that may be privileged.

2 BY MR. JONES:

3 Q Are you being paid for your testimony today?

4 A Yes, I am.

5 Q And how much have you been paid?

6 A I haven't been paid anything yet, but I was offered  
7 30,000.

8 Q And who offered to pay you that 30,000?

9 A IFA.

10 Q Who is that?

11 A Integrity for America.

12 Q What's their relationship to this litigation?

13 A I don't think I -- they have supported the litigation. I  
14 can't say more formally than that. It's really not my purview  
15 and I don't think I'm the best person to answer that question.

16 Q The people paying you \$30,000, you don't know?

17 A Well, first of all, we took the case pro bono when we  
18 signed our letter of engagement in 2019, and this was  
19 relatively recently offered to us through the attorneys that we  
20 were working with. So yeah, I mean --

21 Q So they're working with the attorneys on the plaintiffs'  
22 side; is that what you're saying?

23 MS. KAPLAN: Objection, Your Honor.

24 THE COURT: Well, he can go into who -- if he knows  
25 who's paying him.

P. Simi - Cross

1 THE WITNESS: I'm sorry, could you restate the  
2 question.

3 BY MR. JONES:

4 Q It's your understanding that IFA, the group that has  
5 promised to pay you \$30,000 for your work and testimony in this  
6 case, is associated with the attorneys for the plaintiffs in  
7 this case?

8 A That's my understanding.

9 Q Are you part of the board for a group called Life After  
10 Hate?

11 A Yes, I am.

12 Q Are you familiar with an individual named Samantha  
13 Froelich, who is a member of that group?

14 A Yes, I am.

15 Q Are you familiar with her involvement in this case?

16 A That's how I'm familiar with her.

17 Q Okay. You testified that you had studied the League of  
18 the South. Do you remember saying that?

19 A Yes, as part of the white supremacist movement.

20 Q So you also described some of your research as  
21 ethnographic fieldwork. Does that sound right?

22 A Yeah, that's correct.

23 Q And the demonstrative that was put up on the screen said  
24 that you have been conducting fieldwork and interviews with  
25 white supremacist organizations from 1997 to 2021; is that

P. Simi - Cross

1 right?

2 A That's correct.

3 Q And that your research focuses on the Southwest and  
4 Northwest United States; is that right?

5 A That was specifically in reference to folks that I had  
6 embedded with and were doing the house visits with.

7 Q So an important part of your research as a sociologist is  
8 to embed with the subjects that you are studying; is that  
9 correct?

10 A Yeah, for ethnographic fieldwork, that's a standard  
11 aspect.

12 Q And those were people in Arizona, California, Nevada and  
13 Utah; is that correct?

14 A That's correct.

15 Q These are the people who you'll sleep on their couch or  
16 stay in their spare bedrooms; is that right?

17 A That's correct.

18 Q And why is it important to do that as part of your  
19 research?

20 A Well, as I indicated earlier in terms of ethnographic  
21 fieldwork, it gives you a vantage point in terms of trying to  
22 develop a deep understanding of whatever it is you're studying,  
23 whether it's individuals or groups or culture or community. It  
24 allows you to kind of try and see things from their  
25 perspective, see how they understand the world.



P. Simi - Cross

1 Q That's the type of thing you can't necessarily get by just  
2 maybe reading statements from them or looking at their website,  
3 right?

4 A Well, oftentimes ethnographic --

5 Q It was just a yes or no question.

6 A Can you restate it again, please?

7 Q The types of benefits that you can get from doing  
8 ethnographic fieldwork, those are different from the types of  
9 benefits and information you get from just looking at someone's  
10 website or reading statements by them; isn't that right?

11 A In some cases. I would have to say that's actually a  
12 pretty complicated question, because it involves different  
13 types of research methodology and their benefits, and of course  
14 any method has both pros and cons, benefits and weaknesses. So  
15 I would have to say that is -- I would have to say: Sometimes.

16 Q Now, you've never slept on Michael Hill's couch, have you?

17 A No, I have not.

18 Q You've never stayed in Michael Tubbs's spare bedroom, have  
19 you?

20 A No, I have not.

21 Q You've never even met or interviewed anybody in the League  
22 of the South, have you?

23 A That's correct.

24 Q Would it be fair to say from an academic standpoint, then,  
25 when you say that you have studied the League of the South,

P. Simi - Cross

1 your study has been fairly superficial?

2 A I don't think that's fair.

3 Q You don't think that's a fair characterization?

4 A No.

5 Q Have you ever written an article about the League of the  
6 South?

7 A As part of our research, we write broadly about different  
8 facets of the white supremacist movement. That would certainly  
9 include the League of the South.

10 Q You've mentioned the name "League of the South" in an  
11 article that you've published?

12 A I mean --

13 Q Yes or no. Have you?

14 A I've published over 50 articles and books, so to tell you  
15 off the top of my head every group that I've mentioned in  
16 writing would be very difficult.

17 Q So the research that you've done with folks in Arizona,  
18 California, Nevada, and Utah, as a sociologist, would you agree  
19 that people in California are different from people in, say,  
20 Alabama or Florida?

21 A That's a fair statement.

22 Q Would it be fair to say that people who are 70 or 61 years  
23 old are different from 30-year-olds? Would that be a fair  
24 statement?

25 A That's a fair statement.

P. Simi - Cross

1 Q The things that motivate a 70-year-old, 61-year-old, would  
2 be different from the things that motivate a younger person;  
3 wouldn't that be a fair statement?

4 A Partly why we've tried to generate a wide distribution in  
5 terms of ages, and regions, for that matter. In fact, the  
6 fieldwork conducted in Idaho involved people from all over the  
7 country. So --

8 Q That was in Idaho?

9 A Yeah. It --

10 Q What part of the United States is Idaho?

11 A If you'd allow me to explain, it involved, obviously, that  
12 Idaho is in the --

13 MR. JONES: Your Honor, it's nonresponsive. It is --

14 MS. KAPLAN: I don't know, Your Honor, how Mr. Jones  
15 could know it's nonresponsive. He's cutting him off.

16 THE COURT: I don't need everybody talking.

17 Go ahead and ask him a question. And he has a right  
18 to explain. But he can answer.

19 BY MR. JONES:

20 Q So we talked about joking, people using humor. As a  
21 sociologist, would it be a fair statement to say that humans  
22 use humor to bond and connect with each other?

23 A It's a fair statement.

24 Q And that's across the board? Generally all humans are  
25 that way; would that be fair to say?

P. Simi - Cross

1 A Yeah, generally speaking.

2 Q Would it be fair to say that people joke about what they  
3 know, the things that they know about? So a lawyer might joke  
4 about the law and a doctor might joke about medicine; would  
5 that be fair to say?

6 A Seems reasonable.

7 Q Would it be fair to say that somebody involved in the  
8 white nationalist movement would joke about things related to  
9 the white nationalist movement? Would that be fair to say?

10 A Yes.

11 Q Is it your testimony that every time a defendant in this  
12 case says "I was just joking when I said that," that you're  
13 able to tell whether that's true or not?

14 A That wasn't part of our opinion. Our opinion is that the  
15 role of humor and joking within the white supremacist culture  
16 has a certain degree of prominence and that there is often a  
17 kind of doublespeak aspect to it, a double-meaning aspect to  
18 it.

19 We've never offered an opinion that would allow us to  
20 characterize each and every person and the jokes that they told  
21 at various specific points in time. We're talking, as a core  
22 characteristic, this is a prominent theme within the movement.

23 Q Professor Simi, would it be your opinion that someone who  
24 opposes the removal of Confederate monuments was part of the  
25 white supremacist movement?

P. Simi - Cross

1 A Can you restate that?

2 Q Would it be your opinion that somebody who opposes the  
3 removal of Confederate monuments or statues is part of the  
4 white supremacist movement?

5 A If your question is that piece of information without any  
6 other details, then I would say no.

7 Q Now, in the 25 years of research you've done on the -- as  
8 you refer to it, as "the white supremacist movement," I'm  
9 assuming you've come across groups who oppose the white  
10 supremacist movement; would that be a fair statement?

11 A I guess it depends on what you mean by "come across."  
12 It's not been a point of focus or study.

13 Q Are you aware of the existence of groups that oppose the  
14 white supremacist movement?

15 A Yes.

16 Q And are you aware that some of those groups use violence  
17 to oppose the white supremacist movement?

18 A I know that white supremacists certainly focus on that  
19 issue quite a bit, and talk a lot about the threat that they  
20 believe different groups that oppose them --

21 Q So was the answer to my question that you are -- that,  
22 yes, you are aware that the groups that oppose the white  
23 supremacist movement sometimes use violence?

24 A I'm not -- again, this is not something I've looked at  
25 specifically as part of my research. This is not part of my

P. Simi - Cross

1 focus. I'm not here today to talk about groups that oppose the  
2 white supremacist movement, beyond how white supremacists see  
3 that and their perceptions.

4 Q So you've never -- you said that white supremacists often  
5 talk about their opponents being violent. You just said that,  
6 right?

7 A I did say that.

8 Q And you've never checked to see if that's correct or not?  
9 You've never done that before, in 25 years?

10 A Am I aware that -- of people who have said that who have  
11 then -- who have actually been involved in incidents of  
12 violence with people that oppose them? Yeah, but I don't know  
13 what those -- necessarily, those circumstances were. I don't  
14 know the details. I don't --

15 Q I'm not asking for details.

16 MS. KAPLAN: Please stop interrupting, Mr. Jones.  
17 He's answering your question.

18 THE COURT: Ms. Kaplan, don't instruct the lawyers.

19 MS. KAPLAN: I'm sorry, Your Honor. I apologize.

20 THE COURT: Have you finished your answer, sir?

21 THE WITNESS: Yes, sir.

22 BY MR. JONES:

23 Q It was just a general question. So is the answer to that  
24 question yes, you are aware that some of the groups that oppose  
25 the white supremacy movement use violence? Are you aware of

P. Simi - Cross

1 that, yes or no?

2 A Yes, I'm aware that white supremacists certainly talk a  
3 lot about that.

4 Q Okay. That wasn't the question. Did you misunderstand  
5 the question?

6 A I think you're asking me a question that -- you're  
7 asking -- would require details about individual claims about  
8 folks that oppose the white supremacist movement, in terms of  
9 whether they are --

10 Q So let me try to get at it through a different route.

11 MS. KAPLAN: Your Honor, he just interrupted him  
12 again.

13 THE COURT: Well, do you have a question that you  
14 have not answered, sir?

15 I'll ask the witness: Sir, are you finished  
16 answering the question?

17 THE WITNESS: Yes, that's fine.

18 THE COURT: Go ahead.

19 BY MR. JONES:

20 Q So you've been doing this for 25 years?

21 A That's correct.

22 Q Since 1996?

23 A That's correct.

24 Q You just testified that people in the white supremacist  
25 movement talk about people who oppose them using violence.

P. Simi - Cross

1 They talk about that all the time, don't they?

2 A It is a prominent theme.

3 Q Is it your testimony that you have never followed up to  
4 see whether that is actually the case or not?

5 A That's not what I said. I said I don't have specific  
6 details about all of the different expressions or claims that  
7 are made by white supremacists about this type of antagonism in  
8 terms of their perception that they're victims of violence. I  
9 don't have details on those claims that would be -- seem to be  
10 what you're asking for in terms of, am I aware that those  
11 claims are accurate or not.

12 Q You've never come across a single instance of somebody who  
13 opposes the white supremacy movement using violence?

14 A There are documented cases of that, certainly.

15 Q Okay. So I guess, to go back, you are aware that  
16 opponents of the white supremacy movement -- as you said,  
17 there's documented incidents of this -- you're aware that they  
18 do use violence?

19 A That's a fair statement.

20 Q Okay. Thank you.

21 Are you aware of the term "doxing"?

22 A Yes, sir.

23 Q And that's another thing that members in the white  
24 supremacy movement are worried about, right?

25 A I don't think it's exclusive to the white supremacist



P. Simi - Cross

1 movement.

2 Q Right. But it is something that members of the white  
3 supremacist movement are worried about, right?

4 A That's a fair statement.

5 Q And that's one reason that they wouldn't want their cell  
6 phone to get into the hands of Antifa, right? They would be  
7 worried about doxing; would that be a fair statement?

8 A That's certainly something they talk about.

9 Q The consequences for people in the white supremacist  
10 movement when they're doxed are pretty significant, right?

11 A I guess what do you mean by "significant"?

12 Q They can lose their jobs; they can be disowned by their  
13 families?

14 A There are instances of --

15 Q They can go to jail?

16 A There are instances of those things happening.

17 Q Would those be pretty significant consequences?

18 A They seem like it, yeah.

19 Q So on -- you reviewed over 600,000 -- well, not over --  
20 575,000 Discord messages, approximately?

21 A Approximately.

22 Q Spent over -- approximately 1,000 hours?

23 A Approximately.

24 Q And you testified that you were able to determine that  
25 somebody using the handle "Tyrone" was Michael Chesny; is that

P. Simi - Cross

1 right?

2 A That's correct, sir.

3 Q You had to do a little bit of digging to find that out,  
4 because there was nothing about Michael Chesny in the name  
5 "Tyrone"; is that fair to say?

6 A Yeah. Well, we didn't just use Discord to make those  
7 determinations; also deposition testimony and -- yeah.

8 Q So you spent some time trying to figure out the identity  
9 of the people who were posting on Discord; is that fair to say?

10 A That really wasn't a major part of our focus, in terms of  
11 our -- our assignment was not to track down who individual  
12 users were based on their handles.

13 Q Now, you were working on this case with an academic named  
14 Kathleen Blee; is that right?

15 A That's correct.

16 Q And you worked pretty much hand-in-hand with her  
17 throughout this whole case; is that right?

18 A As a collaborative -- yeah, collaborative relationship.

19 Q And you've known her for a while; isn't that true?

20 A Yes, that's correct.

21 Q And you've authored articles with her, correct?

22 A Yes, we've coauthored together.

23 Q And throughout your work on this case, you used a  
24 particular methodology; is that fair to say?

25 A Yes, very much.

P. Simi - Cross

1 Q Is that the type of methodology that you generally use in  
2 your academic work?

3 A Yes.

4 Q And that type of methodology would be, you don't start  
5 with the conclusion and look for facts to support that; you  
6 start with the evidence and you go where it leads. Would that  
7 be a fair description of the methodology you use?

8 A Very much.

9 Q Is that the methodology you used in this case?

10 A Yeah, absolutely. It's referred to as induction. It's an  
11 inductive process.

12 Q So plaintiffs' counsel submitted a CV for Professor Blee.

13 A Okay.

14 Q And she gave a speech at the University of Florida in  
15 2014. I'm going to show you part of that and ask if you agree  
16 with a statement she made. I'm going to walk over to --

17 THE COURT: Is your microphone working there?

18 MR. JONES: If I could have permission to approach  
19 the witness, Your Honor --

20 THE COURT: You may.

21 MR. JONES: -- I'll just play it.

22 THE WITNESS: You say this was 2014?

23 MR. JONES: That's right.

24 MS. KAPLAN: I'd like to watch it myself, Your Honor.

25 THE COURT: Yes.

P. Simi - Cross

1 Are we supposed to be hearing that?

2 MR. JONES: Just the witness.

3 (Video playing for witness.)

4 BY MR. JONES:

5 Q Did you hear that?

6 A Yeah, but if you want to read it, that would be great.

7 Q Sure. So Kathleen Blee said that -- your coauthor of this  
8 report said: "It was important for them to know that I was  
9 going to say negative things about them" -- referring to  
10 members of the white supremacist movement -- "before doing the  
11 research because, first of all, you get a lot of blowback if  
12 you don't."

13 Did you hear that?

14 A I did hear that.

15 Q Do you agree with that methodology?

16 A That's not really -- that's not really a research  
17 methodology. It's a practice related to ethics in terms of,  
18 her determination was that it was -- I should say ethics and  
19 safety, for that matter.

20 Her determination, clearly, was that it needed to be  
21 acknowledged up front, that she needed to present that up  
22 front, in part because when you're dealing with a movement that  
23 idolizes Adolf Hitler, expresses support for the Holocaust, for  
24 lynching, for violence more broadly, clearly there are going to  
25 be some negative things that are said as part of documenting

P. Simi - Cross

1 these -- these findings. That's pretty hard to avoid. I mean,  
2 imagine trying to study serial killers and not say anything  
3 negative, right?

4 Q Well, but you're also worried if you say anything positive  
5 you'll get blowback, right?

6 A No. My understanding of what she said was in reference to  
7 blowback from white supremacists, that --

8 Q So she said that: "It was important that they knew in  
9 advance before I conducted my research that I was going to say  
10 negative things about them"; otherwise, "you get blowback if  
11 you don't."

12 So are you saying that the white supremacist movement  
13 would give her blowback if she said positive things about them?

14 A I guess I took it that she was suggesting that if she  
15 wasn't kind of up front and transparent in that respect, that  
16 after the fact there would be blowback from the white  
17 supremacists.

18 Q Isn't it true that, as you were reviewing the 575,000  
19 Discord posts and spending 1,000 hours on this case, you  
20 already had the end conclusion in your mind because you were  
21 worried about blowback if you didn't?

22 A That's not a fair characterization.

23 MR. JONES: Thank you. That's all the questions I  
24 have.

25 THE COURT: All right.

P. Simi - Cross

1 MR. CANTWELL: Is Mr. Smith going to go next? Did he  
2 talk to you?

3 THE COURT: No. He wanted to go last, I think.

4 THE CLERK: He doesn't have a preference.

5 MR. CANTWELL: I think Mr. Spencer was texting with  
6 Mr. Smith during the --

7 MR. SPENCER: Why don't we just have Mr. Smith go?

8 MR. CANTWELL: Is Mr. Smith ready?

9 THE COURT: Is he there? Mr. Smith?

10 MR. CANTWELL: All right. I'll go.

11 Is he ready?

12 MR. SMITH: I just -- I need video of me.

13 Okay.

14 THE COURT: Go ahead.

15 CROSS-EXAMINATION

16 BY MR. SMITH:

17 Q Okay. Mr. Simi, so let me get this -- okay. All right.

18 Okay. I couldn't see you there for a second, sir.

19 So let me get this straight. You're being paid by the  
20 plaintiffs to come in here and say that the defendants' words  
21 don't mean what the defendant says they mean, or even what the  
22 dictionary says those words mean, but rather what the  
23 plaintiffs say the defendants' words mean, correct?

24 MS. KAPLAN: Objection, Your Honor.

25 MR. SMITH: It's a tricky question, I guess, and a

P. Simi - Cross

1 little bit -- but I can -- I can --

2 THE COURT: Well, look, I think the witness can  
3 handle this himself.

4 Go ahead.

5 THE WITNESS: No, that's not accurate.

6 BY MR. SMITH:

7 Q Okay. Why not?

8 A Well, let's unpack the question. It was a little bit, you  
9 know, kind of multifaceted.

10 Do you want to repeat it and I'll tell you which parts are  
11 inaccurate?

12 Q Okay. So you're being paid by the plaintiffs, or their  
13 lawyers, I suppose, to say -- to come in here into court and to  
14 say that the -- that the defendants' words --

15 A Okay. Can I stop you there?

16 Q Sorry, there's a -- yeah.

17 A They're not paying us to say anything. They asked us --  
18 they gave us an assignment. They provided us with substantial  
19 amounts of material. We have, you know, professional  
20 standards, research methodology, that we rely on to review that  
21 material, to analyze the material and offer an opinion. We're  
22 not simply just being paid to say X, Y, Z.

23 Q Okay. So what's a white supremacist? You used that term  
24 a lot, and I just -- I think we should figure that out, what  
25 that means.

P. Simi - Cross

1 A Sure. Sure.

2 Q So tell me.

3 A One of the core characteristics we talked about of the  
4 white supremacist movement -- again, we're not talking about  
5 just a random individual.

6 What we're talking about is, first of all, the white  
7 supremacist is, you know, in terms of, when you think about the  
8 ingroup/outgroup, you would have a high degree of explicit bias  
9 that would be directed towards aspects of the outgroup; in this  
10 case, different -- people of color, Jewish people, so forth.  
11 There's a sense that these individuals are inferior in some  
12 respects, or represent kind of an existential threat in some  
13 respects, in the case of Jewish people, and that this is the  
14 outgroup.

15 And then the ingroup in this case would be white people,  
16 and the belief that the white race is superior in certain  
17 respects; is, you know, essentially responsible for most of  
18 history's advancements in terms of civilization and science and  
19 culture and so forth. And so stick that together --

20 Q Is -- right. Sorry.

21 A Okay. And --

22 Q Is that not -- is that not accurate, the thing about the  
23 advancements in technology and such? Is that not accurate?

24 A Is that a serious question?

25 Q I don't know.



P. Simi - Cross

1 A I'd like you to restate that, because I want to make sure  
2 I understood you correctly.

3 Q Are you saying that whites are not responsible for most  
4 major advances in technology?

5 MS. KAPLAN: Objection, Your Honor. This is so  
6 outside the scope and so argumentative.

7 MR. SMITH: I don't think it is, Your Honor. I think  
8 that he literally said exactly the opposite of that.

9 THE COURT: The witness is not here to testify  
10 about -- he's not testifying about the relative merits of  
11 whites as opposed to other persons. He's here testifying --  
12 the subject was the question of white supremacy.

13 MR. SMITH: Yeah. We were talking about that, right?

14 THE COURT: He's not -- he is not expressing an  
15 opinion in favor or against either side. He's expressing the  
16 results of his research and a professional opinion. That's  
17 what an expert does. It's not...

18 BY MR. SMITH:

19 Q So is "white supremacist" just -- is that code for  
20 anything? Is that a kind of code?

21 A I guess, can you be a little more clear? I'm not sure  
22 what you're getting at.

23 Q Well, can you please define "white supremacist" for me?  
24 Just -- I don't mean give me an example of a white supremacist,  
25 but rather just give me a definition, a framework within which

P. Simi - Cross

1 we can put this.

2 A Okay. It would be individuals and organizations that  
3 believe the white race is superior and have high levels of  
4 explicit bias that's directed towards those they consider to be  
5 outgroups, such as Jewish people, blacks, and other people of  
6 color.

7 Q Nonwhites, you mean?

8 A That would be a term that white supremacists would use,  
9 yes.

10 Q They use the term "nonwhites"?

11 A Use it very frequently to describe what we're referring  
12 here to today as "outgroup."

13 Q Okay. So you're saying that "nonwhite" is a kind of white  
14 supremacist code to recognize that there are a group of people  
15 that are not white? To recognize them as nonwhite is white  
16 supremacist code; is that what you're saying?

17 MS. KAPLAN: Objection, Your Honor. That's --

18 MR. SMITH: I don't know. I think it's a fair  
19 question, Judge.

20 THE COURT: Can you answer that question?

21 MR. SMITH: It's just yes or no.

22 THE COURT: No, it's not a yes or no.

23 Can you answer that question, sir?

24 THE WITNESS: Sure, Your Honor.

25 No, I did not say that. I said it's a term that's

P. Simi - Cross

1 used among white supremacists to describe various different  
2 groups of people of color, that that is a term that they often  
3 will use, is "nonwhite," which reflects their --

4 BY MR. SMITH:

5 Q Okay.

6 A Go ahead.

7 Q Okay. So do you believe that China has a Chinese  
8 supremacy problem?

9 MS. KAPLAN: Objection, Your Honor.

10 MR. SMITH: No, Your Honor, that's an absolutely  
11 relevant question here.

12 THE COURT: What's the relevance?

13 MR. SMITH: It goes to antiwhite bias. It goes to  
14 antiwhite bias, Your Honor. These are white nationalist  
15 organizations that are on trial.

16 MS. KAPLAN: It's completely beyond the scope, Your  
17 Honor.

18 THE COURT: Well, bias is never beyond the scope.  
19 Tell me how you're getting bias out of that.

20 MR. SMITH: You were talking to me, Your Honor?

21 THE COURT: Yes.

22 MR. SMITH: Well, if he, for example, only believes  
23 that whites should be deprived of an ethnostate, whereas every  
24 other race has an ethnostate, and he thinks that whites  
25 shouldn't, that would seem to be antiwhite bias, and that would

P. Simi - Cross

1 show -- that would be relevant here.

2 THE COURT: You're asking, is that his opinion?

3 MR. SMITH: Well, we can -- I was planning on getting  
4 there within a series of a few questions, but we can ask him  
5 straight-up.

6 THE COURT: Well, let's ask him that right now.

7 Did you get the gist of what he's driving at?

8 THE WITNESS: Your Honor, I'm here as an expert on  
9 the white supremacist movement, not on China. So it seems like  
10 a fairly bizarre question.

11 MR. SMITH: Well, I was talking about whites. Do you  
12 think whites should --

13 THE COURT: I think he's asking you only white --  
14 only -- I'm not sure what you're asking.

15 MR. SMITH: I got you, Your Honor. I understand why  
16 it's confusing.

17 BY MR. SMITH:

18 Q It's just -- the question is: Do you believe that every  
19 race should have their own ethnostate, except for whites?

20 A Do I believe that every race should have their own  
21 ethnostate but whites? Is that the question?

22 Q Yeah. Sure. That's good. We can start with that.

23 A No. No, I don't believe that.

24 Q Do you think that other races should be entitled to have  
25 ethnostates in their ancestral homelands?

P. Simi - Cross

1 MS. KAPLAN: Your Honor, this is really far afield.

2 THE COURT: That's sustained. You're getting too far  
3 away. That's not -- he's answered your first question.

4 MR. SMITH: I can't imagine how this is far afield.

5 BY MR. SMITH:

6 Q Okay. So you were talking about impression management;  
7 that was a phrase you used?

8 A That's correct.

9 Q That seemed to me -- and correct me if -- you know, I  
10 could be mistaken about this, but the way you were describing  
11 it, it seemed just like that was like any PR firm, you know,  
12 like, public relations. It seemed like that was exactly what a  
13 PR firm would do, right?

14 A Yeah, as we stated, front and backstage are not unique  
15 to -- these terms aren't unique to the white supremacist  
16 movement. Impression management isn't, either, and as you just  
17 stated, neither is PR.

18 Q Right. It's so common it's literally its own industry.

19 A I don't --

20 Q I don't know. Is it -- is it just a problem when  
21 pro-white advocates engage in it? Is it then somehow nefarious  
22 and wrong?

23 A I'm not clear on your question.

24 Q Is impression management some sort of problem when  
25 pro-white advocates engage in it?

P. Simi - Cross

1 A We're here to offer an opinion about the core  
2 characteristics about the white supremacist movement. One of  
3 those core characteristics is the front and backstage aspects  
4 of the behavior that we're discussing today.

5 Q You know, that's -- I'm glad you brought that up, that  
6 front backstage thing. That is perfect because, did you  
7 know -- and I learned this only recently -- did you know that  
8 in Japan there's something called honne and tatemae -- I think  
9 that's how you say it -- and honne refers to a person's true  
10 feelings and desires, and tatemae refers, contrastingly, to the  
11 behavior and opinions one displays in public? It's a  
12 distinction that started to be made in the post-war era. And  
13 in fact, this is considered by -- this divide of -- this  
14 public/private divide is considered by some to be of paramount  
15 importance in Japanese culture.

16 Did you know that? I just found this out.

17 MS. KAPLAN: Your Honor, objection. He's not an  
18 expert on Japanese culture.

19 THE COURT: Well, he has not passed judgment on the  
20 backstage and front stage. He's just saying that --

21 MR. SMITH: Your Honor, but I think he has.

22 THE COURT: Well, he said --

23 MR. SMITH: Oh, but I think he has passed judgment,  
24 Your Honor.

25 THE COURT: Wait a minute. He agreed with you that

P. Simi - Cross

1 that's -- that PR firms do this.

2 MR. SMITH: So the front stage/backstage thing, it  
3 exists and it's totally -- he's totally fine with it? Because  
4 it doesn't seem like he's totally fine with it. It seems like  
5 he's upset with --

6 THE COURT: Well, he doesn't have to be fine with it.  
7 He's just explained his opinion.

8 MR. SMITH: Okay. So he's explaining something that  
9 exists in, like, every aspect of every culture, and -- okay.  
10 Fine.

11 BY MR. SMITH:

12 Q I'm curious about this one. Did you say "the 12 million"  
13 earlier?

14 A Can you be a little bit more specific? 12 million what?

15 Q I think -- I don't know. You said -- I remember hearing  
16 the phrase "the 12 million." I was just checking on that. Do  
17 you remember what I'm talking about?

18 A You're going to have to refresh my memory.

19 Q It was a little earlier. You know, I'm thinking that  
20 somebody else might be able to ask you about that. I'll just  
21 mark that as --

22 A Okay.

23 Q -- nonresult. So have you ever seen a terrorist try to  
24 claim self-defense before? You were talking about how, you  
25 know, there appears to be a plan where somebody is going to,

P. Simi - Cross

1 like, I don't know, run people over and then try to claim  
2 self-defense for that.

3 THE COURT: Wait a minute. You've asked -- you asked  
4 one question. Then you went on to something else. You asked  
5 about a terrorist. What was your question?

6 MR. SMITH: I was just going through some assorted  
7 questions. I'm sorry they didn't thread together, Judge. Some  
8 of these are -- there was a lot to ask him about in his direct.

9 BY MR. SMITH:

10 Q So, let's see here. Oh, you're not a psychiatrist, right?

11 A No, I'm not, sir.

12 Q Okay. You're not a psychologist either?

13 A No, I'm not, sir. I'm a sociologist.

14 Q So you're not a medical doctor of any kind?

15 A No. I have a Ph.D. I'm not a medical doctor.

16 Q Okay. So you were talking about how whites view Jews as  
17 an outgroup. Do other races view races other than their own as  
18 an outgroup? Is that a common thing amongst races, if you  
19 know?

20 MS. KAPLAN: Objection, Your Honor.

21 MR. SMITH: I don't know, Your Honor, if he's an  
22 expert in that or not.

23 MS. KAPLAN: Very vague, Your Honor. I'm not sure I  
24 understand.

25 THE COURT: You can answer.



P. Simi - Cross

1 MR. SMITH: He was talking about how there's ingroup  
2 outgroup behavior, and he talks about it in whites. I was just  
3 wondering if he's aware of any other races that engage in that  
4 behavior. Like are any other races tribal --

5 THE COURT: Can you answer the question?

6 THE WITNESS: Okay to answer?

7 THE COURT: Yes, answer the question.

8 THE WITNESS: Ingroup/outgroup dynamics are certainly  
9 not restricted to white supremacists.

10 BY MR. SMITH:

11 Q So you know Israel has an ethnostate now? Ever since I  
12 think like 1948 or somewhere in the late --

13 THE COURT: Mr. Smith, he's not here to say what's  
14 good or bad. He just said that he did the research on what he  
15 called the white supremacy situation.

16 MR. SMITH: I know, Your Honor.

17 THE COURT: They fit a certain criteria.

18 MR. SMITH: I get what you're saying.

19 THE COURT: He didn't express any opinion as to  
20 whether it was good or bad.

21 MR. SMITH: Well, he did testify that part of this  
22 whole white supremacist thing is that whites -- it's anyone who  
23 wants an ethnostate for whites in any form, no matter how small  
24 it would be, they would be a white supremacist. And I'm just  
25 wondering -- so Israel has an ethnostate. Are its citizens,

P. Simi - Cross

1 like, Jewish supremacists? Is that how that works?

2 THE COURT: Maybe --

3 MR. SMITH: I think it's a fair question.

4 THE COURT: If he understands --

5 MR. SMITH: Sure.

6 THE COURT: -- let him answer.

7 THE WITNESS: Sir, actually, you mischaracterized the  
8 testimony. The testimony was that one of the primary goals of  
9 the white supremacist movement is to essentially develop or  
10 create a white homeland. I didn't say that -- I'm not sure  
11 exactly how you phrased it, but anyway, that's the testimony,  
12 that one of the primary goals of the white supremacist movement  
13 is the creation of a white homeland.

14 BY MR. SMITH:

15 Q You have no view on -- you have no normative view on the  
16 creation of a white homeland or the existence of a white  
17 homeland?

18 A I'm not here to talk about norms as it applies to myself.  
19 I'm here to talk about my opinion and Professor Blee's opinion  
20 on the white supremacist movement.

21 Q I don't know if you remember this. Hillary Clinton, she  
22 got skewered by the media or something because she said  
23 something about a public/private -- just having a  
24 public/private distinction, it being important. And people  
25 were very angry about that. I was just wondering, was that --

P. Simi - Cross

1 was she a white supremacist? It's front-stage/backstage stuff,  
2 right?

3 MS. KAPLAN: Your Honor, objection.

4 THE COURT: Well, Mr. Smith, that's just -- the  
5 question makes no sense.

6 MR. SMITH: Sorry, Your Honor. I'll withdraw it.

7 THE COURT: He has said that front-stage/backstage  
8 does not -- is not confined to white supremacy.

9 MR. SMITH: Okay. You know what? That was -- I  
10 think that was my bad handwriting. I probably misread that  
11 one. Sorry. I'm coming up to the end. Maybe one or two more.

12 BY MR. SMITH:

13 Q So you mentioned that another form of white ethnostate  
14 would be, like, where there would be, like, a supermajority  
15 white population and then there would be minorities that  
16 would -- they would live there, but they wouldn't be citizens  
17 or have voting rights necessarily. Does that characterize it  
18 correctly?

19 A That's consistent. They'd be subordinated to white  
20 authority in a very formal respect, something like -- well, go  
21 ahead.

22 Q Well, I was going to say, there is this place -- and, you  
23 know, I've never been there, but it's called Singapore, and  
24 they have -- that's the setup that they have there pretty much.  
25 You've heard of that, right?

P. Simi - Cross

1 MS. KAPLAN: Your Honor, now we're talking about  
2 Singapore?

3 MR. SMITH: Well, it's just -- that's the thing that  
4 he says is horrible. It would be the worst thing ever if white  
5 people were to have an ethnostate of this type, but Singapore  
6 has it and people seem to like it.

7 THE COURT: Mr. Smith, you're mischaracterizing the  
8 testimony.

9 MR. SMITH: Okay. Sorry, Your Honor.

10 BY MR. SMITH:

11 Q So you know the protester digester, whatever that was?  
12 You know what I'm talking about? That image. I don't know  
13 who --

14 A Yes, sir.

15 Q -- you know that's not a real thing, right? Okay.

16 A I'm sorry. I said yes, sir, I know what you're talking  
17 about. What's the question?

18 Q You know that's not a real thing, right? That doesn't  
19 actually exist, right?

20 A Thank you.

21 Q I mean, you were aware of that, right?

22 A That that farm equipment doesn't exist; is that your  
23 question?

24 Q Well, I don't know, the protester digester, that's not a  
25 thing. You're aware of that, right?

P. Simi - Cross

1 A I know that there was an image of a piece of farm  
2 equipment that I assume is a real thing, yeah, that there is  
3 farm equipment that would resemble something to that effect.

4 Q And you would -- okay.

5 A That's how I described it when I described the image. I  
6 said it was farm equipment.

7 Q I see. Does that seem realistic to you, like a realistic  
8 scenario?

9 A I think you're missing the point.

10 Q I don't know. Is there a point?

11 MS. KAPLAN: Your Honor, please direct Mr. Smith.

12 This isn't a conversation. It's Q and A.

13 THE COURT: Well --

14 MR. SMITH: I like to think of cross-examination as a  
15 conversation between the attorney and the witness.

16 THE COURT: I know you might like to think so but --

17 MR. SMITH: Sorry, Your Honor.

18 THE COURT: -- you ask questions, let him answer.

19 MR. SMITH: Okay. I was just trying to keep it  
20 lively for everybody. I'm sorry.

21 BY MR. SMITH:

22 Q Have you received any money from any -- do you receive any  
23 money from organizations known as the ADL or the SPLC? I can  
24 ask those one at a time if you -- like, do you receive any  
25 money from the ADL, the Anti-Defamation League?

P. Simi - Cross

1 A No, sir, I have not.

2 Q Do you receive any money from the SPLC or the Southern  
3 Poverty Law Center?

4 A No, sir, I have not.

5 Q Do you work with anyone who does, if you know?

6 A I wouldn't know, sir. That's not a question I would  
7 normally ask.

8 Q Simon Wiesenthal Center?

9 A No, sir.

10 Q Any other similar organization that I haven't mentioned?

11 MS. KAPLAN: Objection.

12 THE COURT: Overruled.

13 BY MR. SMITH:

14 Q Any other -- any other pro-Jewish organization that I  
15 haven't mentioned?

16 A I don't even know what that means, sir.

17 Q What pro-Jewish means?

18 A Yeah, I mean, do you care to define that?

19 Q Well, what does pro-black mean?

20 MS. KAPLAN: Your Honor, if he wants to ask him  
21 whether he knows anyone who received money from organizations,  
22 he can say what they are.

23 THE COURT: Ms. Kaplan, let -- the witness --

24 MR. SMITH: He has to know what --

25 THE COURT: He can answer the question. But

P. Simi - Cross

1 Mr. Smith --

2 MR. SMITH: She does this every time, Judge. I feel  
3 like -- it is relevant.

4 THE COURT: You don't have to go through every list.  
5 He's asking you, I think --

6 MR. SMITH: You're right.

7 THE COURT: -- do you receive any income or money  
8 from any organization that supports Jewish issues.

9 THE WITNESS: Not that I'm aware, sir.

10 BY MR. SMITH:

11 Q Okay. So this is -- like, this is my last sort of line of  
12 questioning here.

13 All right. So there's a lot of talk in this whole thing  
14 about -- I think there was a lot of talk in the Discord or on  
15 Twitter or whatever about gassing the kikes, right? Right?

16 A That's correct.

17 Q I think that was something that you -- right. Okay. And  
18 this is supposed to be some sort of phrase that gets used a  
19 lot. So you said that you were embedded with the Nazis for 20  
20 years or something, right?

21 MS. KAPLAN: Objection, Your Honor.

22 MR. SMITH: I thought that was what the -- there was  
23 something about --

24 THE COURT: Overruled. He didn't say Nazis, to my  
25 recollection, but he can --

P. Simi - Cross

1 MR. SMITH: Oh, like, well, you know, I was just --

2 THE COURT: -- answer the question. White  
3 supremacists.

4 BY MR. SMITH:

5 Q Yeah, whatever, like, you know, whatever groups you  
6 were -- you know, you did that for like 20 years, right?

7 A Yes. The embedding was done between 1997 and 2004.  
8 Additional research including intensive life history interviews  
9 have been done since then, to the present.

10 Q And you say that they're saying this phrase all the time  
11 and -- are they doing that all the time?

12 A Can you restate the question?

13 Q Yeah. So you say -- you said that they say this phrase  
14 all the time. Do they do it all the time; i.e. do they gas the  
15 kikes all the time?

16 A Members of the white supremacists, including folks that I  
17 spent substantial amounts of time with, have extensive violent  
18 histories that includes involvement in hate crimes, domestic  
19 terrorism, and the like. So I suppose the answer is actually  
20 yes.

21 Q Right. I was speaking -- I was speaking specifically  
22 about gassing the kikes; i.e, in other words, gassing, killing  
23 with poison gas Jews. That's what I'm -- that in particular,  
24 because that's what that means, right?

25 A Well, it is a reference to violence certainly more



P. Simi - Cross

1 broadly. But as far as your question, I am not aware of any of  
2 my research subjects, to use your words, actually using gassing  
3 to kill Jewish people.

4 Q Well, wait a second. But wait. Because there was a post.  
5 I remember there was a post from Discord. It was that guy  
6 Azzmador -- I forget his last name -- Robert Ray or something.  
7 He said something about having gassed six kikes.

8 A Well, he's not a research participant. I thought you were  
9 asking me about folks that I studied.

10 Q Yeah, but he said --

11 THE COURT: Wait. Wait. Wait.

12 MR. SMITH: Well, he was in --

13 THE COURT: Mr. Smith, you asked him were the people  
14 gassing the kikes all the time.

15 MR. SMITH: Right.

16 THE COURT: The answer to that was no.

17 MR. SMITH: Right.

18 THE COURT: And you know that --

19 MR. SMITH: Right.

20 THE COURT: -- so you don't have to go beyond that --

21 MR. SMITH: Well, he said -- right, Your Honor. He  
22 said he's never seen it. But this guy Azzmador, he had this  
23 post on Discord where he said --

24 (Overlapping speakers.)

25 THE COURT: Now you're saying Azzmador said something

P. Simi - Cross

1 and he --

2 MR. SMITH: Well, he said he --

3 THE COURT: -- that doesn't impeach this witness.

4 MR. SMITH: Well, nobody knows -- I mean, like, what  
5 did Azzmador mean?

6 THE COURT: All right. Look --

7 MR. SMITH: Did he mean that he did it?

8 THE COURT: Look, Mr. Smith, go to another subject.

9 MR. SMITH: I thought this -- I thought --

10 THE COURT: Go to another subject.

11 MR. SMITH: I'm sorry, Your Honor. I thought this --

12 THE COURT: Go to another subject.

13 MR. SMITH: All right. All right. I will. I just  
14 thought -- I thought this guy was the code reader. He was like  
15 the Mentalist. And I'm just -- I'm disappointed. I'm sorry.  
16 I have no further questions, Your Honor.

17 THE COURT: All right. Thank you.

18 CROSS-EXAMINATION

19 BY MR. CANTWELL:

20 Q Good afternoon, Mr. Simi.

21 A Good afternoon, Mr. Cantwell.

22 Q Part of your report, you said that the white supremacist  
23 movement is characterized by a high degree of internal  
24 conflict; is that right?

25 A That's correct.

P. Simi - Cross

1 Q Suffice it to say it's difficult to paint us all with a  
2 broad brush?

3 A There are common core characteristics, but certainly there  
4 are also internal differences. That's fair.

5 Q You also said it's highly decentralized, yet coordinated;  
6 is that right?

7 A Yes, that's correct.

8 Q In the course of your research of the subject matter, have  
9 you come across what might be described as antisemitic  
10 conspiracy theories?

11 A Within the white supremacist movement?

12 Q Yeah.

13 A Very much.

14 Q Is the theory of Jews being responsible for capitalism and  
15 communism one of those things?

16 A There is discussion of both of those things, that's  
17 correct.

18 Q Do you find in the white supremacist movement that  
19 they're -- the targets of their enmity, they're often trying to  
20 have it both ways?

21 A Yes. And oftentimes within extremist ideologies there are  
22 kind of internal inconsistencies that seem from the outside a  
23 little bit odd, but within the movement they seem to be able to  
24 navigate and negotiate those inconsistencies quite well.

25 Q Within extremist movements there's these sort of apparent

P. Simi - Cross

1 internal inconsistencies, you said?

2 A Yeah, if you look at the broader study of extremism, this  
3 is not an uncommon thing to be observed.

4 Q Prior to being contacted in relation to this lawsuit, how  
5 many full episodes of the Radical Agenda had you listened to?

6 A I would say probably a couple. I mean, you know, maybe --  
7 yeah, not a huge number certainly. Not nearly as many as I've  
8 listened to since working on the case.

9 Q So prior to being contacted for this lawsuit it's your  
10 testimony today that you've listened to two full episodes of  
11 the Radical Agenda from beginning to end?

12 A No, because I couldn't tell you exactly how many.

13 Q Is it less than five?

14 A Yes.

15 Q Okay. Is it more than one?

16 A That's fair to say.

17 Q Okay. And after being contacted for this lawsuit you've  
18 listened to more full episodes of the Radical Agenda?

19 A That's correct.

20 Q About how many?

21 A Quite a few. We had -- I don't have the exact number off  
22 the top of my head. Again, you have to keep in mind we  
23 reviewed literally thousands and thousands of documents as part  
24 of this analysis.

25 Q I'm talking about a podcast here. It's pretty different

P. Simi - Cross

1 from a document. Would it be more than 20 episodes?

2 A Approximately. I would say around -- no, I would say less  
3 than that.

4 Q Less than 20 episodes?

5 A Yeah, I would say in the dozen, in that kind of --

6 Q Somewhere -- somewhere between ten and 15?

7 A That's fair.

8 Q Who decided which episodes of the Radical Agenda you were  
9 going to listen to?

10 A Keep in mind, you're asking questions of myself, but I had  
11 a partner. We divided up the labor in various ways in terms of  
12 all the different material. So I guess you'd have to repeat  
13 your question again.

14 Q Who decided which episodes of the Radical Agenda you were  
15 going to listen to?

16 A That would have been between Professor Blee and myself, we  
17 developed a strategy for going through the material.

18 Q Was this material given to you by the plaintiffs' counsel  
19 in this case?

20 A All of the material we reviewed for this case was provided  
21 to us.

22 Q Okay. So you didn't go on christophercantwell.com and go  
23 find the Radical Agenda. This was given to you by plaintiffs'  
24 counsel, right?

25 A Yeah, as I said, all of the material was.

P. Simi - Cross

1 Q Before this lawsuit as well?

2 A No, of course not.

3 Q But you had listened to the Radical Agenda -- full  
4 episodes of Radical Agenda prior to being contacted by  
5 plaintiffs' counsel, right?

6 A That's a fair statement.

7 Q And who decided which of those episodes you would listen  
8 to?

9 A For the case?

10 Q Prior to being contacted for this lawsuit.

11 A I mean, it was -- it would have been -- I mean, I review a  
12 substantial amount of material related to the white supremacist  
13 movement on a regular basis in order to essentially continue to  
14 try and monitor and look for kind of current trends and aspects  
15 of the culture. Now that I'm not doing embedded fieldwork, I  
16 continue to look at things online. So, you know, it's a lot of  
17 reviewing this type of material.

18 Q Is this material sometimes fed to you by activists?

19 A No. I don't conduct research with activists in terms of  
20 them feeding me material. That's not part of any research  
21 methodology I'd ever utilize.

22 Q What is the research methodology by which you've decided  
23 to listen to the Radical Agenda?

24 A For this case?

25 Q Prior to this case.

P. Simi - Cross

1 A Prior to this case, I wasn't necessarily -- I was trying  
2 to maintain some degree of familiarity with different aspects  
3 of the movement. So it wasn't that I was necessarily  
4 conducting a specific analysis of the Radical Agenda. It would  
5 be more this is something that seems to be related. Let's get  
6 a better sense of and try to understand it a little bit better.

7 Q Prior to being contacted by plaintiffs' counsel, the  
8 episodes you listened to, can you tell me anything specific  
9 about those episodes?

10 A Well, I mean, in general the material we reviewed related  
11 to the Radical Agenda has a lot of -- a substantial amount of  
12 antisemitism. There are more broad themes as it relates to,  
13 you know, racism, white supremacy. Can I recite to you an  
14 episode off the top of my head? I'm sorry, I can't do that.

15 Q Can you tell us anything about the Radical Agenda that  
16 isn't boilerplate white supremacist commentary?

17 A I guess I don't understand the question.

18 Q You've answered it. Thank you.

19 Are you familiar with Ibram X. Kendi?

20 A Yes.

21 Q Michelle Alexander?

22 A Yes.

23 Q Robin DiAngelo?

24 A Yes.

25 Q Would it be fair to broadly characterize their work as

P. Simi - Cross

1 critical race theory?

2 A This is quite a controversial topic, isn't it?

3 Q Indeed it is.

4 A You would I think better be positioned to ask them  
5 themselves how they characterize themselves and where they  
6 would fall in terms of whether they think they see themselves  
7 and their work as critical race theory.

8 Q Does critical race theory influence your work at all?

9 MS. KAPLAN: Your Honor.

10 THE COURT: He can answer that. I mean, I'm not  
11 saying it's a proper question. I'm just saying he can answer  
12 it quicker than I can deal with it.

13 MS. KAPLAN: I hear you, Your Honor.

14 THE COURT: Go ahead.

15 THE WITNESS: Go ahead?

16 THE COURT: Yes.

17 THE WITNESS: I'm certainly aware of critical race  
18 theory. I've read work that's described as critical race  
19 theory by the legal scholars themselves who initiated this  
20 framework back in the '70s, '80s. So I'm certainly aware. As  
21 part of my graduate school training, certainly read articles  
22 associated with that body of work.

23 BY MR. CANTWELL:

24 Q Would it be fair to say that an understanding of critical  
25 race theory is important to understanding white supremacy?



P. Simi - Cross

1 A I think that's -- partially. I would say partially. I  
2 think you could -- certainly there are people, myself included,  
3 who have studied the white supremacist movement that, you know,  
4 really haven't necessarily specifically utilized the framework  
5 of critical race theory. But certainly critical race theory  
6 would provide a vantage point for looking at the white  
7 supremacist movement.

8 Q Would it be fair to say that critical race theory views  
9 American society as a fundamentally white supremacist  
10 institution?

11 MS. KAPLAN: Your Honor, we're really getting far  
12 afield.

13 MR. CANTWELL: He's an expert on white supremacy.

14 THE COURT: He is not testifying as to what's good  
15 and what's bad. He's testifying that in his study of white  
16 supremacy movement and so forth, that there are these  
17 particular criteria or particular factors appear. And I don't  
18 think he's been called upon to pass judgment.

19 MR. CANTWELL: Judge, I'm not asking him to make a  
20 value judgment.

21 THE COURT: But you're not going to go down the road  
22 with critical race theory. I mean, is it necessary to his  
23 opinion? Unless he says it's necessary --

24 MR. CANTWELL: If I could just have a moment to  
25 explain my train of thought here. If you want to do sidebar,

P. Simi - Cross

1 I'd be happy to do that.

2 THE COURT: Let's go on.

3 BY MR. CANTWELL:

4 Q It's your view that the white supremacist movement is  
5 categorized by violence, right?

6 A It's a core characteristic.

7 Q Are you aware of other definitions of white supremacy that  
8 don't view it that way?

9 A Not the white supremacist movement. It seems to be you're  
10 now kind of pivoting to a broader usage of the term.

11 Q People like Robin DiAngelo would say that the status quo,  
12 the normal state of affairs in the United States is white  
13 supremacy, right?

14 MS. KAPLAN: Your Honor, this is so far afield.

15 MR. CANTWELL: It's not.

16 THE COURT: Well, look, you're debating whether white  
17 supremacy is good or bad.

18 MR. CANTWELL: That's not what I'm doing. I'm  
19 debating whether it's violent. And whether it's violent is at  
20 the heart of his testimony. Whether it's violent. I'm not  
21 asking him to say yes or no. Maybe he thinks violence is good,  
22 for all I know. That's not the question.

23 MS. KAPLAN: He just explained, Your Honor --

24 MR. CANTWELL: He's saying -- excuse me.

25 THE COURT: Look. Look. Ms. Kaplan, please. It's

P. Simi - Cross

1 hard enough to deal with --

2 (Overlapping speakers.)

3 MR. CANTWELL: Give me one moment to explain my train  
4 of thought, please.

5 THE COURT: Yes.

6 MR. CANTWELL: Okay. I'm not asking him to say good  
7 or bad. I'm not trying to get good or bad out of him. He is  
8 here to say that the white supremacist movement is  
9 characterized by violence, okay? There are other definitions  
10 of that term and there are other people who see it differently  
11 who are considered experts in their field.

12 And so I'm asking him about specific -- a specific  
13 point of view that says America is a fundamentally white  
14 supremacist society. And I want to discuss that frame of  
15 thought with the expert.

16 THE COURT: You can ask him if he's aware of it.  
17 It's not going to be a discussion between him and you about  
18 that because that's not the subject. You can ask him if there  
19 are other people that have other opinions, other experts that  
20 have other opinions. That's fine. But we don't have to get  
21 into everybody else's opinion in any sort of depth.

22 MR. CANTWELL: It's not my goal to get into everybody  
23 else.

24 THE COURT: Go ahead.

25 BY MR. CANTWELL:

P. Simi - Cross

1 Q So, would it be fair to say that experts in their field  
2 who look at things through the framework of critical race  
3 theory view America as a fundamentally white supremacist  
4 institution?

5 A There are lots of discussions as part of the critical race  
6 theory framework that discuss institutional racism or  
7 institutional white supremacy. I think I may be able to help  
8 out, though, here. Our opinion is not about that. It's about  
9 the white supremacist movement. To my knowledge, I know of no  
10 one -- no scholar who studies the white supremacist movement  
11 that doesn't also focus on the extent to which violence is at  
12 the core of that movement.

13 Q Okay. Thank you.

14 A Sure.

15 Q When is a racist joke just a joke?

16 A Our opinion is not focused on making individual  
17 determinations about this issue. Our opinion is about the  
18 cultural importance of humor, and in particular violent humor,  
19 within the white supremacist movement, and the extent to which  
20 there are pretty clear indications of double meanings. I think  
21 we looked at the *Daily Stormer* guide where you have these very  
22 clear statements within the movement where humor is meant to  
23 convey these double meanings.

24 Q That's the *Daily Stormer* style guide you're referring to.

25 A That's just one example, but that is a very clear example.

P. Simi - Cross

1 Q How did you come into possession of the *Daily Stormer*  
2 style guide?

3 A Again, all the material we reviewed for this case was  
4 provided to us.

5 Q So the plaintiffs provided you with all the Radical Agenda  
6 episodes, all the Discord posts, and the *Daily Stormer* style  
7 guide?

8 A The attorneys that we worked with provided us the  
9 materials for us to review.

10 Q Do you know how the plaintiffs came into possession of the  
11 *Daily Stormer* style guide?

12 A No, sir, I do not.

13 Q Do you know how the *Daily Stormer* style guide became  
14 public?

15 A Off the top of my head, I do not.

16 Q But the *Daily Stormer* style guide is public, isn't it?

17 A That's a fair statement.

18 Q So the *Daily Stormer* style guide is front-stage behavior,  
19 is it not?

20 A I think you're misunderstanding front-stage. Something --  
21 just because it's out in the public doesn't mean it's  
22 front-stage.

23 Q So public behavior not front-stage behavior, you might  
24 understand how I could be a little bit confused by that. Can  
25 you help me out?

P. Simi - Cross

1 A Sure. These terms are -- like I said, they are  
2 sociological terms that are used to understand and explain  
3 human behavior. So that's understandable.

4 Q Could you help alleviate my confusion?

5 A Sure. So you indicated that the style guide was made  
6 public.

7 Q It was, right. And so is this not something that the  
8 publisher sought to convey to the public?

9 A At that point, yes.

10 Q Okay. So the *Daily Stormer* style guide is an example of  
11 front-stage behavior?

12 A It has -- well, in the public realm -- first of all, you  
13 would have to define "public." How public are we talking?

14 Q The *Daily Stormer* style guide, I've seen this published by  
15 the *Huffington Post*, so I'd go ahead and say it seems to me  
16 this is pretty public. Are you disagreeing with that  
17 assessment?

18 A No, that's fair.

19 Q So this is front-stage behavior, right?

20 A Not necessarily, because it has, again, aspects in it that  
21 were meant for insiders in terms of those, you know, that are  
22 described as "in the know" to, you know, essentially lay out  
23 these kind of directives that are in the guide. Does it  
24 have -- once it's out in the public domain, it does have some  
25 front-stage aspects at that point.

P. Simi - Cross

1 Q Just so we're clear -- let me find the operative portion  
2 of this before we move on. Here we go.

3 MR. CANTWELL: Can I show this on my screen to the  
4 witness here? I'm on the VGA line.

5 THE WITNESS: Okay.

6 MR. CANTWELL: Now, I think -- this is in evidence,  
7 right, *The Daily Stormer* style guide?

8 MS. KAPLAN: It is, Your Honor.

9 MR. CANTWELL: Can we publish this to the jury,  
10 please?

11 BY MR. CANTWELL:

12 Q So I think when you were questioned by plaintiffs'  
13 counsel, we were looking under the section called "Lulz." Does  
14 that ring a bell to you, sir?

15 A That's right, sir.

16 Q And we addressed the point where he said: "This is  
17 obviously a ploy and I actually do want to gas kikes. But  
18 that's neither here nor there," right?

19 A Yes.

20 Q Did you categorize that as backstage behavior while you  
21 were discussing it with plaintiffs' counsel?

22 A We used this as an example, actually, of doublespeak, in  
23 the sense of that there are double meanings here and it's an  
24 intentionally deceptive type of communication where -- you  
25 know, basically suggesting one thing for one audience and

P. Simi - Cross

1 something that would have a different meaning for another  
2 audience that might not have the same information.

3 Q Okay. And the section here is titled "Lulz."

4 "Lulz" is some kind of internet slang; is it not?

5 A That's my understanding.

6 Q Do you know what "lulz" means?

7 A I believe it refers to, essentially, internet humor,  
8 issues related to internet humor.

9 Q So under the section titled "Lulz," Andrew Anglin, the  
10 publisher of *The Daily Stormer*, said: "This is obviously a  
11 ploy and I actually do want to gas kikes." And this is  
12 doublespeak, right?

13 A It is a type of doublespeak, our understanding.

14 Q *The Daily Stormer*, they're a defendant in this suit,  
15 right? You know that?

16 A That's my understanding.

17 Q And you were able to look at discovery in this case?

18 A Yes, the materials that we were provided.

19 Q Did you receive any discovery from *The Daily Stormer*?

20 A We were provided materials by the attorneys and we  
21 reviewed that material.

22 Q Did you read any of Andrew Anglin's internal emails?

23 A Again, based on how much information we went through, not  
24 off the top of my head. But that is a difficult question to  
25 answer in terms of every specific type of material that we went



P. Simi - Cross

1 through.

2 Q Would it be fair to say that you don't recall reading any  
3 private communications pertaining to the Defendant *The Daily*  
4 *Stormer*?

5 A That would be fair.

6 Q Okay. So you don't really know what *The Daily Stormer*  
7 does backstage at all, do you?

8 A Is that a question?

9 Q Yes.

10 A I think that's -- I would say that's an inaccurate  
11 characterization.

12 Q What do you know about *The Daily Stormer's* backstage  
13 behavior?

14 A I think this style guide gives a pretty good indication of  
15 some aspects of --

16 Q This public style guide gives you an aspect of what *The*  
17 *Daily Stormer* does behind the scenes?

18 A Well, it gives us a sense of the kind of motivations, some  
19 of the tactics, strategies in terms of what *The Daily Stormer*  
20 would like to do as far as how it would like to proceed.

21 We, of course, went through the document earlier, in  
22 addition to this, discussed that during the direct testimony,  
23 that provided directives that were pretty clearly indicative of  
24 backstage recommendations in terms of behavior, about how to  
25 proceed in a more secretive, guarded manner in terms of using

P. Simi - Cross

1 things to try to conceal your identity and communicate in ways  
2 that would be more protected.

3 Q Oh, so now you're talking about the Operational Security  
4 for Right-Wing Rallies. That's a different document, right?

5 A Yes.

6 Q And that was also published publicly, right?

7 A Yes.

8 Q Okay. We can take my screen down, if you would, please,  
9 from the jury.

10 And so that was published on *The Daily Stormer*, July 31st,  
11 2017, right?

12 A I believe that's true.

13 Q This is -- I think you have the binder there. It's  
14 PX-2777, right?

15 A Okay.

16 MS. KAPLAN: Your Honor, we're happy to publish this  
17 before the jury.

18 MR. CANTWELL: Well --

19 MS. KAPLAN: If Mr. Cantwell wants to open the door,  
20 we're happy to publish this before the jury and move to admit.

21 BY MR. CANTWELL:

22 Q Who wrote that piece?

23 A It says "weev."

24 Q You know who weev is, right?

25 THE CLERK: I'm sorry, are we admitting it and

P. Simi - Cross

1 publishing it?

2 THE COURT: No, not yet, unless Mr. Cantwell wants it  
3 published.

4 MR. CANTWELL: I'm not trying to publish this to the  
5 jury.

6 BY MR. CANTWELL:

7 Q You know who weev is?

8 A Yes, sir.

9 Q What's his real name?

10 A Andrew Auernheimer.

11 Q Auernheimer?

12 A Excuse me. I mispronounced it.

13 Q Do you know if he is a defendant in this case?

14 A Not to my knowledge, sir.

15 Q Do you know what country he was residing in when he wrote  
16 this article?

17 A Not off the top of my head.

18 Q Did you see any discovery from Andrew Auernheimer?

19 A No, sir.

20 Q Do you know Andrew Auernheimer's ethnic background?

21 A Yes.

22 Q What is it?

23 A As far as I understand, Jewish.

24 Q So Andrew Auernheimer is writing for *The Daily Stormer* and  
25 he's Jewish, right?

P. Simi - Cross

1 A Correct.

2 Q And he is telling people really convenient things for the  
3 plaintiffs about destroying evidence, right?

4 A Can you restate that?

5 MS. KAPLAN: Your Honor, we move for the admission of  
6 the document. This is -- he can talk about the -- as soon as  
7 he goes beyond that, it should be admitted and the juror should  
8 see it.

9 MR. CANTWELL: Excuse me. I didn't file a lawsuit  
10 about race.

11 THE COURT: No, no, no.

12 Overruled. Go ahead.

13 BY MR. CANTWELL:

14 Q Is *The Daily Stormer* -- how did you describe *The Daily*  
15 *Stormer*? What is *The Daily Stormer*, sir?

16 A Well, it's an organization that's pretty openly neo-Nazi  
17 in terms of its beliefs. Obviously has a webpage. It has a  
18 web presence. There's *Daily Stormer* book clubs that have been  
19 organized over the years. They've engaged in various types of  
20 gatherings in terms of, not only online, but offline as well.

21 Q Did you describe them as "one of the most popular neo-Nazi  
22 websites on the planet"?

23 A We described them that way in our report, yes, sir.

24 Q And weev, Andrew Auernheimer, is a contributor to *The*  
25 *Daily Stormer*; is that right?

P. Simi - Cross

1 A Yes, sir.

2 Q I think he's been described as the CTO?

3 A Okay.

4 Q He's a senior partner in that enterprise of some sort; is  
5 that fair, to categorize him as that?

6 A That seems accurate.

7 Q And so *The Daily Stormer* is run by a Jew, and he's  
8 publishing things for operational security at right-wing  
9 rallies that are now being used as evidence against the  
10 defendants in this case; is that a fair statement, sir?

11 A You'd have to --

12 THE COURT: That's argumentative.

13 BY MR. CANTWELL:

14 Q Is it a fair statement that *The Daily Stormer*, which is  
15 run by a Jew, is now being used as evidence in this case  
16 against these defendants?

17 A It is something we discussed during my direct testimony.  
18 It was part of it, the exhibit.

19 Q And so *The Daily Stormer* style guide, which is from *The*  
20 *Daily Stormer*, which is run by a Jew, is your example of  
21 doublespeak, right?

22 A Yes.

23 Q Okay. So a Jewish white supremacist is engaging in  
24 doublespeak. Gotcha.

25 A He would not be the first Jewish white supremacist.

P. Simi - Cross

1 Q He certainly would not be. Could you tell me about some  
2 more of them?

3 A Are you familiar with Daniel Burros, a member of the Ku  
4 Klux Klan who was Jewish?

5 Q He was a Jewish Klan member?

6 A Yes, sir.

7 Q And what did he do?

8 A Well, he ultimately committed suicide.

9 Q Shame.

10 Plaintiffs' 0426 I'm going to bring up here. Pardon my  
11 technical difficulties. I'll be with you in just a moment.

12 A Sure.

13 Q You mentioned that Discord was encrypted. Did you say  
14 that on your direct examination?

15 A That's my understanding of Discord, is that it's  
16 encrypted, or offers encryption.

17 Q You're not an expert on encryption, are you?

18 A Absolutely not.

19 Q Is it your understanding that encryption would make it  
20 sort of difficult to sort of have the display that we've had  
21 here about Discord?

22 A I guess I'm not sure what --

23 Q I'm sorry. I'll withdraw it. That's poorly worded.

24 A Okay.

25 MR. CANTWELL: Okay. This is Plaintiffs'

P. Simi - Cross

1 Exhibit 0426, and I believe it's already in evidence. And if  
2 that is the case, then I would -- I'd like to publish it to the  
3 jury. All right?

4 THE COURT: You may. Go ahead.

5 BY MR. CANTWELL:

6 Q So we're looking at this. You described this image here,  
7 the nigger tote. This was posted by Azzmador, right?

8 A That's correct.

9 Q And Azzmador is another contributor to *The Daily Stormer*,  
10 right?

11 A That's correct.

12 Q And Azzmador is a defendant in this case, isn't he?

13 A Yes, he is.

14 Q Do you recall reviewing any discovery provided by  
15 Azzmador?

16 A I guess I'm not sure what you mean by "provided by  
17 Azzmador." We certainly reviewed materials about Azzmador.

18 Q Did you see Azzmador's private emails?

19 A Again, we reviewed a lot of different documents.

20 Q Would it be fair to say that at this moment you can't  
21 recall reading of any of Robert "Azzmador" Ray's private  
22 emails?

23 A Right off the top of my head, no.

24 Q And so when we were going over --

25 THE COURT: We're going to take a recess now for

P. Simi - Cross

1 20 minutes.

2 MR. CANTWELL: Okay. Great.

3 **(Jury out, 3:07 p.m.)**

4 (Recess.)

5 THE COURT: You may be seated. You may proceed.

6 BY MR. CANTWELL:

7 Q Okay. So as we left, we established that this was --  
8 Defendant Robert Azzmador Ray published this image on -- this  
9 Discord image. Do you remember what we're talking about?

10 A Yes.

11 Q We established that the thing in the top left of these  
12 Discord images, that's the server, right?

13 A Yes.

14 Q And what server is this posted in, sir?

15 A Bowl Patrol.

16 Q And the channel, what's that?

17 A #bowl\_nut\_gallery.

18 Q Would it be fair to say the list of channels almost  
19 exclusively have something to do with bowl something on there?

20 A That seems fair.

21 Q And we established that the bowl thing, the bowl cut,  
22 that's a Dylann Roof reference, right?

23 A That's correct.

24 Q How much of the Unite the Right organizing was done on the  
25 Bowl Patrol server?



P. Simi - Cross

1 A I would say it's not a huge portion.

2 Q Would it be fair to say that you cannot currently recall  
3 any Unite the Right organizing that went on in the Bowl Patrol  
4 server?

5 A Again, you're asking me to, you know, off the top of my  
6 head. And it's been quite some time since we reviewed all this  
7 material. So I just want to be careful as far as, you know,  
8 being overly specific without that information in front of me.  
9 Certainly, like I said in my testimony, it's not a large  
10 amount.

11 Q Okay. You know who the Bowl Patrol is, right?

12 A Yeah. I mean, I guess it depends what you mean by that.

13 Q The name Vic Mackey ring a bell?

14 A Yes, it does.

15 Q What's Vic Mackey's real name?

16 A Off the top of my head I couldn't tell you.

17 Q Do you know Vic Mackey's ethnic background?

18 A Off the top of my head, no.

19 Q Safe to say none of the defendants in this case are  
20 members of the Bowl Patrol, to the best of your knowledge?

21 A Yeah, I wouldn't be able to answer that question.

22 Q So to the best of your knowledge, none of the defendants  
23 in this case are members of the Bowl Patrol?

24 A I don't know.

25 Q So the answer to the question is yes, to the best of your

P. Simi - Cross

1 knowledge, none of the defendants in this case are the Bowl  
2 Patrol; is that fair to say?

3 A I don't think that's a reasonable answer at all.

4 Q Okay.

5 A I don't know. Why would I say --

6 Q So I say -- would it be fair to say --

7 (Overlapping speakers.)

8 THE COURT: Wait. Wait.

9 MS. KAPLAN: Your Honor.

10 THE COURT: Look --

11 MR. CANTWELL: He's answered the question. You're  
12 right.

13 BY MR. CANTWELL:

14 Q You said that the white supremacist movement takes this  
15 image very seriously; is that an accurate representation of  
16 your testimony?

17 A Images like this?

18 Q Yes.

19 A Yes, sir.

20 Q How many nigger totes were sold?

21 A That's not a question I can answer.

22 Q You can't say that the answer to that question is zero,  
23 sir?

24 A How would I be able to say that?

25 Q Okay. So you're not sure if maybe 500 of these things

P. Simi - Cross

1 were produced and sold to attendees of the Unite the Right  
2 rally. You think that might have occurred?

3 A Our opinion about this image and others like it is not  
4 that they're merchandise that are being sold as we speak. It's  
5 the underlying themes of promoting violence that this image and  
6 its dehumanization of those that are considered to be racial  
7 enemies or adversaries that are so explicit in both the visual  
8 image as well as the text. That's what our opinion in  
9 reference to this specific image is, not about the number of  
10 products that were sold or whether it's even sold at all.

11 Q So -- have you ever written or spoken in favor of laws  
12 prohibiting so-called hate speech?

13 A Have I ever -- can you restate that?

14 Q Have you ever written or spoken in favor of laws  
15 prohibiting so-called hate speech?

16 A Not to my knowledge.

17 Q Not to your knowledge or no?

18 A No. I mean, unless you have something to show me, as far  
19 as I know, no.

20 Q I'm just interested --

21 (Overlapping speakers.)

22 A Yeah, no.

23 Q This report is the first time you've done that, then?

24 MS. KAPLAN: Objection, Your Honor.

25 MR. CANTWELL: Withdrawn.

P. Simi - Cross

1 We can take this down from the screen.

2 BY MR. CANTWELL:

3 Q I'm showing you Plaintiffs' Exhibit 0562.

4 I think this is already in evidence. Is it?

5 MS. KAPLAN: I don't think so.

6 MR. CANTWELL: Okay. well, I know we showed it for  
7 him.

8 MS. KAPLAN: I have no problem with you showing it to  
9 the jury.

10 MR. CANTWELL: That's fine. If we could just put  
11 this up on the screen.

12 (Plaintiffs' Exhibit0562 marked.)

13 BY MR. CANTWELL:

14 Q Do you recall this, Mr. Simi?

15 A Yes.

16 Q Do you want to read to me what we're looking at here?

17 A "If you kill a Jew, the Jew in you dies with him, I hear.  
18 This is a tasteless joke. Relax, kike."

19 Q And this is in the alt-right Discord server, right?

20 A That's correct.

21 Q And did you testify that you thought that I took this very  
22 seriously?

23 A No. That was not what was stated.

24 Q Is this front-stage or backstage behavior?

25 A This is an example of how humor is used within the white

P. Simi - Cross

1 supremacist movement. As you'll recall, we talk about it in  
2 those terms. We talk about it in the terms of, again, more of  
3 a doublespeak type of instance in terms of how humor is both  
4 conveying violence and simultaneously making the claim that  
5 it's just a joke.

6 Q So I asked you just a moment ago if it was your testimony  
7 that I took this seriously. And you said that that wasn't your  
8 testimony. Now you're saying that I'm telling other people  
9 that it's just a joke, but there's some other purpose?

10 A Well, you said did I testify. And the words that you used  
11 were not -- I don't recall using those specifically. But  
12 clearly, yes, when you talk about a double meaning and an  
13 advocacy for violence, an advocacy for violence is a serious  
14 matter.

15 Q But this seems like front-stage behavior, doesn't it?

16 A Again, we use this as an instance of doublespeak.

17 Q Does the parenthetical content of this suggest that I  
18 think that Jews are listening?

19 A Restate that.

20 Q Does the parenthetical content, the portion of this that's  
21 in parentheses, indicate that I think the Jews might be  
22 listening?

23 A Again, our opinion in this case is not to get inside your  
24 mind and tell you what you think. That's not what our effort  
25 was. That's not what our assignment was. We're looking for

P. Simi - Cross

1 markers of the core characteristics that are representative of  
2 the white supremacist movement's culture.

3 Q What I'm trying to get at is one of those elements of the  
4 white supremacist culture, which is the front-stage/backstage  
5 behavior. I'm trying to get you to tell me if you can assess  
6 whether this is front-stage or backstage behavior based on the  
7 part where I say "this is a tasteless joke, relax kike," as if  
8 the Jews are listening. Do you think that indicates that I  
9 think I'm front-stage or backstage?

10 A I already answered the question that this is an example of  
11 doublespeak.

12 Q Well, does doublespeak happen in front and backstage? If  
13 it's doublespeak, does that have anything to do with  
14 front-stage or backstage?

15 A Doublespeak can occur in both front or backstage.

16 Q So doublespeak is behavior that we're presenting in the  
17 public, right?

18 A Doublespeak is intentionally deceptive communication where  
19 the same message can have one meaning to insiders -- that is,  
20 folks who are kind of inside and have contextual understanding  
21 of what's meant -- and then simultaneously, that same message  
22 can have a different meaning to outsiders who don't have that  
23 contextual understanding.

24 Q I thought you just got done saying you weren't going to  
25 get inside my head. Now you know my intent?

P. Simi - Cross

1 THE COURT: Look, you're just quarreling with the  
2 witness. Let's move on to another subject.

3 MR. CANTWELL: You got it.

4 BY MR. CANTWELL:

5 Q You said the white supremacist movement sees commies as a  
6 threat; is that right?

7 A I'm sorry --

8 Q Commies? Commies are a threat to the white supremacist  
9 movement? Or at least white supremacists believe that?

10 A White supremacists do discuss the threat of commies.

11 Q Do you believe that's a particularly unique feature of  
12 white supremacy?

13 A I believe white supremacists discuss it substantially and  
14 it's a substantial feature of the white supremacist movement.

15 Q Would it be fair to say that communism has a very broad  
16 range of opponents who are not white supremacists?

17 MS. KAPLAN: Your Honor, again, that's not the point  
18 of his testimony. That's not the point of his report.

19 THE COURT: Well, I understand that. Can you answer  
20 the question, sir?

21 THE WITNESS: It's really beyond the scope of my  
22 opinion here in this case and certainly my expertise.

23 BY MR. CANTWELL:

24 Q It's beyond the scope of your knowledge whether people  
25 other than white supremacists oppose communism?

P. Simi - Cross

1 A I'm here as an expert. So my expert knowledge is, yes, I  
2 don't study communism.

3 Q In your report you're indicating that the seemingly  
4 imagined threat of communism is used as a justification for  
5 violence by white supremacists. Is that a fair assessment of  
6 what you're portraying?

7 THE COURT: The word "commie" has been defined other  
8 than those who believe in communism in this case. Other people  
9 have been considered commies by some of the witnesses who were  
10 not necessarily communists.

11 MR. CANTWELL: I understand that, Judge. The  
12 witness's report indicates, if not the direct testimony, that  
13 the white supremacist movement is -- the implication, anyway,  
14 is that we're conjuring up enemies as a justification for  
15 initiatory violence. I would like to analyze that accusation,  
16 if I could.

17 THE COURT: Well, okay, one question. Let's go.

18 BY MR. CANTWELL:

19 Q Would it be fair to say that communism has a very broad  
20 range of opponents who are not white supremacists?

21 A I guess we're right back to where we started.

22 Q Have you ever heard the phrase "better dead than red"?

23 A I have heard that.

24 Q Fair to say this catch phrase is not limited to the white  
25 supremacist movement?



P. Simi - Cross

1 A That's fair to say.

2 Q And the implication there is not just that someone will  
3 slit their wrist if the wrong guy wins the election, right?

4 MS. KAPLAN: Your Honor, look at the question.

5 THE COURT: I think you've gone into this far enough.  
6 It's not productive of anything.

7 BY MR. CANTWELL:

8 Q Did you make any effort to know anything about who and  
9 what the defendants claim caused the violence at the Unite the  
10 Right rally?

11 A That was not part of our assignment.

12 Q Have you ever read Mark Bray's book, *Antifa: The*  
13 *Anti-Fascist Handbook*?

14 A No, I have not.

15 MR. CANTWELL: No further questions.

16 THE COURT: Okay. All right. Does anyone else have  
17 any?

18 MS. KAPLAN: Just some very brief redirect.

19 THE COURT: Okay.

20 REDIRECT EXAMINATION

21 BY MS. KAPLAN:

22 Q Just a couple of questions, Professor, in redirect.

23 A Okay.

24 Q You mentioned -- and I apologize I don't remember which  
25 counsel asked you -- but you mentioned during cross-examination

P. Simi - Cross

1 that you knew of Samantha Froelich from this case; do you  
2 recall that testimony?

3 A Yes, I do recall that.

4 Q Other than watching her video in this case, the video of  
5 her deposition testimony in this case, have you ever had any  
6 occasion to meet with or otherwise come into contact with  
7 Samantha Froelich?

8 A I have never met her or had any sort of contact other than  
9 reading her deposition and viewing it.

10 Q Now, you testified in response to some questions on  
11 cross-examination that you've been offered 33,000 -- excuse me,  
12 \$30,000 in this case, correct?

13 A That's correct.

14 Q As compensation. And I think you testified, am I correct,  
15 that you've worked a thousand hours?

16 A Approximately.

17 Q When you work in those other cases that you talked about,  
18 the criminal cases that we talked about, what feels like a long  
19 time ago, what's your normal hourly rate?

20 A It ranges, but typically around 250 to \$300 an hour.

21 Q And if you divide \$30,000 by a thousand hours, what's the  
22 hourly rate you're being paid in this case?

23 A I'm a little tired so my math is probably not so good, but  
24 it's less than normal.

25 Q Would you agree with me -- and my math is worse than

P. Simi - Cross

1 yours -- would you agree with me that 30,000 divided by a  
2 thousand is \$30 per hour?

3 A Yes.

4 Q Mr. Jones asked some questions of you about something that  
5 your partner in this matter, Professor Blee, said in 2014 in  
6 Florida; do you recall that?

7 A Yes, I do recall that.

8 Q Let me ask you a couple of follow-up questions.

9 A Sure.

10 Q Am I correct that you last embedded with members of the  
11 white supremacist movement in 2004?

12 A That's correct.

13 Q That was 17 years ago?

14 A That's correct.

15 Q Fair to say you were a younger man then?

16 A Quite a bit.

17 Q Fair to say that you're white?

18 A It is fair to say that.

19 Q Fair to say that you're a man?

20 A That's fair too.

21 Q Do you think it was easier and safer for you to embed with  
22 members of the white supremacist movement than it would have  
23 been for Professor Blee?

24 A Yes, I think that's accurate.

25 Q Defendant Cantwell asked you a question about PX-2233, I

P. Simi - Cross

1 believe that's it, which was the *Daily Stormer* style guide; do  
2 you recall that?

3 A Yes, I do recall.

4 Q And there was a lot of questions back and forth about  
5 whether it was front-stage and backstage.

6 Isn't it true, Professor Simi, that the *Daily Stormer*  
7 style guide was actually leaked after it was written in 2017?

8 A That's my understanding.

9 Q Mr. Cantwell also asked you some questions about a  
10 document called *The Daily Stormer Operational Security for*  
11 *Right Wing Rallies*; do you remember that?

12 A Yes, I did.

13 MS. KAPLAN: Don't put that up, Mr. Spalding.

14 BY MS. KAPLAN:

15 Q You said it was written by a person named "weev"?

16 A Yes, that's what it states here.

17 Q You mentioned his real name. I've already forgotten what  
18 it was. And you said it was written -- I think you recalled it  
19 was written July 31 in 2017?

20 A Yep.

21 Q I want to show you and show the jury Plaintiffs' Exhibit  
22 375, which is already admitted into evidence. Could you tell  
23 the jury what you're looking at here.

24 A Once again, can we blow it up a little bit.

25 Yeah, so more Discord.

P. Simi - Cross

1 Q And this is in the Azzmador server?

2 A That's correct.

3 Q And there's -- the first message is from Defendant  
4 Azzmador?

5 A Yep.

6 Q And he's circulating something around?

7 A Yeah, it looks to be a link to the *Daily Stormer*  
8 operational security.

9 Q For?

10 A For right wing rallies.

11 Q And what's the date of that post?

12 A Appears to be July 31st, 2017.

13 Q And that was the day, as you'll recall, that the article  
14 was written?

15 A That's correct.

16 Q And what does Mr. Azzmador say in his very next post,  
17 Professor?

18 A It says, "@everyone, go to your local dollar store or  
19 Walmart and get cheap tiki torches for the Charlottesville  
20 event. There will be a torch march."

21 MS. KAPLAN: No further questions, Your Honor.

22 THE COURT: All right.

23 MR. KOLENICH: Your Honor, can I ask a brief  
24 follow-up on the subject of the Life After Hate organization?

25 THE COURT: No, I'm going to stop.

A. Muniz - Direct

1 MR. KOLENICH: Yes.

2 THE COURT: You're excused.

3 MS. DUNN: Your Honor, plaintiffs will next call  
4 April Muñiz. And we also have a number of exhibits to read  
5 into the record from a deposition we played last week. So we  
6 could do that while the witness comes to the courtroom.

7 THE COURT: All right.

8 MS. DUNN: Your Honor, plaintiffs move from the  
9 Rousseau 2019 deposition, PX-2015, PX-387, PX-2018. From the  
10 Rousseau 2020 deposition we move PX-3821, PX-382, PX-386,  
11 PX-3822, PX-381, PX-706, PX-355, PX-580, PX-356, PX-3823,  
12 PX-465, PX-3824, PX-458, PX-1168, PX-456, PX-467, PX-987,  
13 PX-468, PX-383, PX-462, PX-469, PX-715, PX-473, PX-384, PX-476,  
14 PX-3825, PX-3829, PX-3830A, PX-2390. Your Honor, there are  
15 several more. I can finish --

16 THE COURT: No, finish now.

17 MS. DUNN: PX-3831, PX-3832, PX-2389, PX-3826,  
18 PX-3833, PX-3834, PX-1985A, PX-2861, PX-2862, PX-2864, PX-2385,  
19 and PX-3865, which is the clip report. Thank you, Your Honor.

20 (Plaintiff Exhibits 2015, 387, 2018, 3821, 382, 386,  
21 3822, 381, 706, 355, 580, 356, 3823, 465, 3824, 458, 1168, 456,  
22 467, 987, 468, 383, 462, 469, 715, 473, 384, 476, 3825, 3829,  
23 3830A, 2390, 3831, 3832, 2389, 3826, 3833, 3834, 1985A, 2861,  
24 2862, 2864, 2385, and 3865 admitted.)

25 APRIL MUÑIZ, CALLED BY THE PLAINTIFFS, SWORN

A. Muniz - Direct

1 DIRECT EXAMINATION

2 BY MS. PHILLIPS:

3 Q Good afternoon, Ms. Muñoz.

4 A Good afternoon.

5 Q Will you please introduce yourself to the jury?

6 A My name is April Muñoz. I am 53 years old, 31-year  
7 resident of the Charlottesville, Albemarle area.

8 Q And are you a plaintiff in this case?

9 A I am a plaintiff in this case, yes.

10 Q Could you please tell the jury a bit about your  
11 educational background, Ms. Muñoz?

12 A Sure. I have a bachelor of arts in psychology and modern  
13 dance from James Madison University and a master of science in  
14 health science from George Washington University.

15 Q Ms. Muñoz, what is your ethnic background?

16 A I'm Mexican American.

17 Q Where do you currently work?

18 A I currently work at a company called Paradigm. It's a  
19 healthcare data analytics company headquartered in Chicago, and  
20 I am a senior project manager.

21 Q How long have you been in that role?

22 A I began working there in January of this year, 2021.

23 Q And can you please tell the jury why you're here today,  
24 Ms. Muñoz?

25 A I am here today because on August 12th, 2017 I witnessed a

A. Muniz - Direct

1 horrific car attack and I'm here to find some accountability  
2 for that and to stand up for those people --

3 THE COURT: Wait. Wait. The lawsuit does not allege  
4 any more than an injury, I gather. And she's suing for -- this  
5 is not -- it's not proper to come in and say you have some  
6 greater plan than the lawsuit itself.

7 THE WITNESS: I'd like to hold those accountable for  
8 my injuries.

9 BY MS. DUNN:

10 Q Okay. Thank you, Ms. Muñiz.

11 A Okay.

12 Q Were you at the torch march on Friday night, August 11th?

13 A No, I was not.

14 Q Were you in downtown Charlottesville on Saturday, August  
15 12th?

16 A Yes, I was.

17 Q Okay. Why did you go downtown that day?

18 A I went downtown that day because I had heard of the Unite  
19 the Right rally and really wanted to stand up with my  
20 community. I wanted to bear witness to the events of the day.  
21 I wanted to support the local businesses who had indicated that  
22 they were fearful that they were going to lose business that  
23 day.

24 Q Okay. Do you recall what time you got downtown?

25 A Yeah, just before noon.



A. Muniz - Direct

1 Q And were you with anyone or meeting anyone?

2 A No. I went alone.

3 Q Did you bring any weapons with you that day?

4 A No, I did not.

5 Q Did you bring any signs or flags or banners with you that  
6 day?

7 A No, I did not.

8 Q What did you bring with you that day?

9 A I brought a cellphone, a camera, and a little fanny pack  
10 with my money and ID in it.

11 Q And where did you go when you got downtown?

12 A So I went straight from my car to Emancipation Park. And  
13 when I got there, it was pretty empty. And I was a little  
14 confused about that, because I thought I was arriving just as  
15 the rally was supposed to start.

16 Q So you got there after the state of emergency was  
17 declared?

18 A I did, yes.

19 Q And what did you do after you saw that nothing was  
20 happening at Emancipation Park?

21 A I wandered around a little bit and went to one of the  
22 alternate parks where I knew there was permitting to do other  
23 things. There was not much happening there, either, so I  
24 basically found myself walking back to my car.

25 Q And at some point did you end up at the intersection of

A. Muniz - Direct

1 Fourth and Water Street?

2 A I did.

3 Q And what happened when you found yourself at the  
4 intersection of Fourth and Water Street?

5 A I ended up at Fourth and Water Street after first  
6 observing a crowd of people coming down Water Street going  
7 east. And I thought, oh, these are -- these look like the  
8 people I've been looking to stand with today. Here they are.

9 And so they were walking down the street. I watched them;  
10 I took pictures of them, kind of was cheering them on. They  
11 seemed pretty celebratory. And then I looked to the left as  
12 they passed me and I saw another group of people, very similar  
13 people, and they sort of joined like two rivers. And I  
14 thought, well, I'll just join in.

15 Q And do you recall where you were when you joined into the  
16 group?

17 A Yeah. I was at First and Water Street.

18 Q Okay. And in terms of: Were you in the front of the  
19 group or the middle of the group or the back of the group?

20 A I was sort of in the back of the group that I joined, but  
21 by the time we joined the other as I kind of got in the middle,  
22 I sort of became in the middle. And then I worked my way to  
23 the front, since I was there by myself and pretty nimble and  
24 really wanted to take some photographs, because it was a pretty  
25 cool-looking crowd to be in.

A. Muniz - Direct

1 Q And did you see any cars at the intersection of Fourth and  
2 Water when you reached that point?

3 A I did. I saw two cars at the intersection, just sort of  
4 waiting for us to pass by.

5 Q Okay.

6 MS. PHILLIPS: Mr. Spalding, if we can show Ms. Muñoz  
7 Plaintiffs' 1694, please.

8 BY MS. PHILLIPS:

9 Q Ms. Muñoz, do you recognize this photograph?

10 A I do.

11 Q What is it?

12 A This is a photograph of, basically, right as we were  
13 turning from Water Street up Fourth Street. It's a one-way  
14 street. You can see the DO NOT ENTER sign. And there are two  
15 cars stopped, as I mentioned, waiting for us to pass by.

16 Q Do you see yourself in this photograph?

17 A I do.

18 MS. PHILLIPS: Your Honor, I would move into evidence  
19 Plaintiffs' 1694 and publish it to the jury, please.

20 THE COURT: Be admitted and you may publish it.

21 (Plaintiffs' Exhibit 1694 marked.)

22 (Plaintiffs' Exhibit 1694 admitted.)

23 BY MS. PHILLIPS:

24 Q Now that the photograph is up for the jury, the screen in  
25 front of you is a touchscreen. If you can circle yourself,

A. Muniz - Direct

1 that would be great. Thank you.

2 A (Witness complies.)

3 Q After the crowd turned up Fourth Street, do you recall  
4 what happened next?

5 A Yes. Very quickly, as we turned -- in fact, you can see  
6 it in this picture -- by the time I got just past that  
7 telephone pole, a car came careening into the crowd.

8 Q And what did you see when the car came careening into the  
9 crowd?

10 A Just a minute.

11 I saw the car just, really, as it was hitting this white  
12 car and the people that were around that white car.

13 I saw people flying into the air. I saw shoes and water  
14 bottles flying into the air. I saw many other people injured  
15 lying all over the floor and screaming. It was the most  
16 horrific thing I've ever seen.

17 Q Can you describe for the jury what you heard?

18 It's okay. Take your time.

19 A Yes. I heard -- I heard the sound of metal hitting  
20 bodies. I don't know how else to describe it; it's metal on  
21 flesh, and metal on metal. As I mentioned also, lots of  
22 screaming and agony.

23 MS. PHILLIPS: Mr. Spalding, can we show Ms. Muñiz  
24 Plaintiffs' 1692, please?

25 (Plaintiffs' Exhibit 1692 marked.)

A. Muniz - Direct

1 BY MS. PHILLIPS:

2 Q Ms. Muñiz, do you recognize this photograph?

3 A Yes, I do.

4 MS. PHILLIPS: And Mr. Spalding, are you able to pull  
5 the photograph down so that we -- there we go. Thank you very  
6 much.

7 BY MS. PHILLIPS:

8 Q Do you see yourself in this photograph?

9 A Yes, I do.

10 MS. PHILLIPS: Your Honor, I'd like to introduce  
11 Plaintiffs' 1692 and publish it to the jury, please.

12 THE COURT: Be admitted.

13 (Plaintiffs' Exhibit 1692 admitted.)

14 BY MS. PHILLIPS:

15 Q Ms. Muñiz, again, can you circle yourself so the jury can  
16 see you in this picture?

17 A Yes. (Witness complies.) Maybe.

18 Q Is that you right there?

19 A Yes, that is me.

20 Q What happened after you saw the vehicle come down and hit  
21 individuals and these other cars?

22 A Immediately after, I stood there for a few seconds and  
23 looked at the carnage that was in front of me. And very  
24 quickly, that Dodge Challenger backed up, just as quickly as it  
25 had come down the hill. And when it did that, it hit more

A. Muniz - Direct

1 people.

2       You can kind of see in this picture -- let me see if I can  
3 draw here. This actually is Marcus Martin, and he's leaning on  
4 a truck there. And as I recall, he actually cleared that  
5 truck, but there was another person standing right there as  
6 this car was backing up. And it squished her between the  
7 Challenger and the truck, really right in my view.

8 Q       How did you feel when you saw the car backing away?

9 A       I was terrified. And I had an immediate sense that the  
10 only reason he would be backing away would be to come right  
11 back at us to plow us all down.

12 Q       What did you do after that?

13 A       Many people started yelling, "Run, run, run." And I did.  
14 I ran down the hill in that direction and around the corner.  
15 This is the Charlottesville Albemarle Community Foundation  
16 building, and there's an alcove right on Water Street, and I  
17 tucked in there to hide.

18 Q       At some point, did you leave the scene?

19 A       Yes. I left there rather quickly because other people  
20 were doing the same thing and they filled it up. And I had  
21 already experienced feeling like I was going to get trampled  
22 when I was running there. I had stepped over injured people,  
23 and so I was very fearful of getting trampled. And I left that  
24 alcove and crossed Water Street, and then turned back to look  
25 at what had just happened.

A. Muniz - Direct

1 Q And after you walked across the street, were you able to  
2 leave the scene?

3 A Not right away. I think as soon as -- I watched that  
4 scene, really, until the -- I watched people helping the  
5 injured people. It was basically just this crowd there.  
6 Nobody else was coming to the scene to help us. And finally a  
7 fire truck came down Water Street.

8 And I think at that point I was able to release, and I  
9 just crumpled to the floor and was really crying hysterically.  
10 Somebody in the crowd came over to help me and asked if they  
11 could help me, asked if I was there with anybody. A street  
12 medic asked, sort of yelling, "Does anybody need help?" And  
13 she called him over and he, you know, looked me over and said I  
14 was in shock. And they were really trying to get me up and  
15 away from the scene. And it took a while for them to convince  
16 me that it was safe to get up and walk on that street again.

17 So they finally did. It was probably ten minutes with  
18 them. And we walked east on Water Street. They told me they  
19 were taking me to a church that had been set up as a first aid  
20 center.

21 Q Okay. Architectural the church was?

22 A First United Methodist, right behind Emancipation Park.

23 Q And did you receive treatment at that church?

24 A Yes, I did. I did receive treatment at that church.

25 Q What kind of treatment did you receive at the church?

A. Muniz - Direct

1 A I was brought in to see a certified trauma therapist who  
2 was there waiting to see patients that day.

3 Q And did you spend some time with that individual?

4 A Yeah. I spent a couple of hours with her.

5 Q Do you recall what kind of treatment was administered to  
6 you?

7 A Yeah. It's a therapy called EMDR. It stands for eye  
8 movement desensitization and reprocessing.

9 Q And you said you received treatment for a couple of hours.  
10 Was that continuous treatment?

11 A No. I was really in a disassociated state. And I  
12 understand that she worked with me for about an hour to get me  
13 out of that state, to understand that I was no longer at the  
14 scene, that I was safe, that I could think enough that she  
15 could talk to me.

16 And at that point there was -- the room was set up to hold  
17 two people and two therapists, and somebody else came in the  
18 room to see the other therapist. There was just a small fabric  
19 panel between us. And she sat down. She had just arrived, so  
20 she was visibly upset. And she said that she had been giving  
21 CPR to somebody on the street and wanted to know how they were,  
22 and somebody came in and told her that person had -- had died.  
23 And so she lost control.

24 I immediately went back into that state of terror again.  
25 And all I could think of was all of those people that I had



A. Muniz - Direct

1 seen, and that surely many of them had died.

2 Q What time did you leave the church that day?

3 A About 4:30.

4 Q And how did you do once you eventually got home that  
5 evening?

6 A I was a wreck. I was in bouts of crying and just -- just  
7 zoning out.

8 Q Were you able to sleep that evening?

9 A No. I had insomnia that night and I've really had a lot  
10 of insomnia ever since then. I also, when I did drift off, had  
11 horrific night terrors, reliving that scene.

12 Q Did the events of August 12th affect you in any lasting  
13 way?

14 A Oh, yeah. It upended my life. It affected me every way  
15 you can think of: Emotionally, mentally, socially, physically,  
16 professionally.

17 Q Okay. I want to talk to you about each of those.

18 I'd like to talk about the mental and emotional effects.

19 Did you continue to seek counseling after August 12th?

20 A Yes. The therapist that I saw at the church actually sent  
21 me away with an appointment to see her that same week, and I  
22 have continued to see her ever since.

23 Q Do you see her on a -- well, how frequently do you see her  
24 now?

25 A At the beginning I was seeing her twice a week, and then

A. Muniz - Direct

1 once a week, and then once a month. Now I'm really seeing her  
2 on an as-needed basis, but, you know, every few months we have  
3 a check-in.

4 Q Did that certified trauma specialist ever provide you with  
5 a diagnosis?

6 A She did. In fact, she's provided me with two diagnoses.

7 The first was acute stress disorder, which -- people are  
8 more familiar with the second diagnosis, which is  
9 post-traumatic stress disorder. Acute stress disorder is  
10 similar to that, but it's bound by a time frame. It happens to  
11 trauma victims either immediately at trauma or within the first  
12 month. If you go longer than those first four weeks, it turns  
13 into, diagnostically, PTSD.

14 Q Do you suffer from triggers, Ms. Muñiz?

15 A Oh, yes.

16 Q What kind of things trigger you?

17 A A variety of things trigger me. A lot of them are related  
18 to cars, no doubt. Whenever I see a Dodge Challenger -- the  
19 Charlottesville Police Department has a Dodge Challenger with  
20 tinted windows that looks just like that, so I see that pass by  
21 me more often than I'd like.

22 For a while, lots of white cars in a row would trigger me,  
23 because there were so many just rented white vans and cars in  
24 town that day.

25 The sound of a helicopter triggers me because there was a

A. Muniz - Direct

1 helicopter flying above us at that moment. And, of course, we  
2 live right near a medical trauma center that has Pegasus flying  
3 in all the time.

4 Q What happens when you're triggered?

5 A It depends. The worst triggers cause full-blown panic  
6 attacks. Others are less severe and cause my anxiety level to  
7 rise very quickly; might hyperventilate. And, you know,  
8 those -- I'm learning to sort of settle myself down faster out  
9 of those.

10 Q Besides seeing this certified trauma therapist, have you  
11 sought any other treatment for the emotional effects of the  
12 trauma?

13 A Yeah. So for the first six weeks or so -- time is very  
14 difficult for me to remember, but -- my whole central nervous  
15 system, my whole body felt like it was just vibrating. I was  
16 getting help. I was going through EMDR therapy. I was living  
17 my life a little bit, but I could not stop vibrating.

18 It's not exactly like shaking, like you'd think. It's  
19 just like your whole body is innervated.

20 So the therapist asked that I -- or suggested that I go  
21 see a body worker who specializes in craniosacral and vagal  
22 therapy that is specifically meant to calm that autonomic  
23 nervous system.

24 Q And did that craniosacral therapy help?

25 A It did, yes.

A. Muniz - Direct

1 Q And do you have any coping mechanisms that you utilize to  
2 help you avoid being triggered?

3 A Oh, yeah. I avoid big crowds for sure. I try to  
4 meditate. I do some yoga. I basically do a lot of avoidance.

5 Q Okay. You had mentioned that the effects of August 12th  
6 impacted you physically. How were you affected physically?

7 A So I was not injured by the car that day; however --

8 Q You mean physically?

9 A Physically injured -- thank you -- by the car that day.

10 I, however, was planning to have a surgery for a condition  
11 I had called pelvic organ prolapse. I had had that condition  
12 for almost two years. It was very painful, and I was finally  
13 at the point -- I had had to go to physical therapy to get to  
14 the point where I could have that surgery. And it was  
15 scheduled for sort of mid-September --

16 Q Of 2017?

17 A -- of 2017.

18 So I went to that doctor's appointment, the presurgical  
19 appointment, ready to hear that I was going to have surgery the  
20 next week. And instead I heard: "You are in such a state, I  
21 am not going to touch your body. It cannot go through the  
22 physical trauma of a surgery. And we're going to postpone it  
23 indefinitely."

24 Q Did you have end up having the surgery at some point?

25 A A year later.

A. Muniz - Direct

1 Q When was that?

2 A In July of 2018. I had to get through a lot of therapy  
3 and EMDR therapy. And by the time I did, it was about March or  
4 April when I was allowed to start physical therapy again to  
5 prepare my body for that surgery.

6 Q Okay.

7 MS. PHILLIPS: Mr. Spalding, I'd like to show  
8 Ms. Muñiz 3320A. Thank you.

9 BY MS. PHILLIPS:

10 Q Ms. Muñiz, do you recognize this?

11 A I do.

12 Q What is it?

13 A This is a summary of the expenses I have had since  
14 August 12th, 2017.

15 Q Is it your medical treatment?

16 A Yes, it's my -- it's my -- all of my medical treatment.

17 Q Okay. Have you reviewed the underlying documents that  
18 this chart is based on?

19 A I have.

20 Q And is this summary accurate?

21 A It is.

22 MS. PHILLIPS: Your Honor, I'd move to admit  
23 Plaintiffs' 3320A, please.

24 THE COURT: It will be admitted.

25 (Plaintiffs' Exhibit 3320A marked.)

A. Muniz - Direct

1 (Plaintiffs' Exhibit3320A admitted.)

2 BY MS. PHILLIPS:

3 Q Ms. Muñiz, I want to talk with you about your return to  
4 work.

5 Were you able to return to work immediately after the car  
6 attack?

7 A Oh, no. No.

8 Q Okay. At some point were you able to return to work?

9 A Yeah. I returned to work three months later.

10 Q And at the time, where were you employed?

11 A I was employed at a contract research organization called  
12 Atlantic Research Group.

13 Q And what was your role there?

14 A I was the director of clinical operations.

15 Q Can you briefly explain your responsibilities in that  
16 former role?

17 A Sure. So this company did a lot of drug development work  
18 for rare diseases. And my role and my team -- I managed a  
19 group of about 25 people and three managers who monitored  
20 clinical trials at medical institutions around the United  
21 States and Canada. And also, a separate group within that  
22 group handled all of the federal regulatory documentation that  
23 goes along with clinical trials.

24 Q Do you recall when you went back to work? You said it was  
25 three months?

A. Muniz - Direct

1 A Yes. I went back November 1st, 2017.

2 Q Okay. And did you resume at full time?

3 A No. I went back part time until January 3rd, 2018.

4 Q And did that time off impact your position at ARG?

5 A Oh, yeah. So while I was out I was keeping in touch with  
6 my boss. And about three weeks in, she told me that they had  
7 decided to give my job to somebody else and that when and if I  
8 returned, there would be a different job there for me.

9 Q How did the new job compare to the old job?

10 A Night and day. The old job, as I mentioned, I was  
11 overseeing 25 people who traveled a lot and were responsible  
12 for some very important things. I was part of -- a very  
13 instrumental part of our management team, part of our sales  
14 team, helped make corporate decisions.

15 My new job was to create a training program for recent  
16 college graduates to introduce them to our industry. I was  
17 taken off the management team and basically kind of tucked in a  
18 corner and left to create training materials.

19 Q At some point, did you leave that role?

20 A I left that role in June of 2018, when they asked me to  
21 leave.

22 Q And when you say they asked you to leave, were you  
23 terminated?

24 A I was terminated.

25 Q And what is your understanding as to why you were

A. Muniz - Direct

1 terminated?

2 A I believe that my personality had changed so much -- I was  
3 socially reserved and I really -- when they switched my role  
4 like that, I lost all confidence in my ability to lead. And I  
5 think they felt the same way.

6 Q Ms. Muñiz, I'm going to show you -- well, let me ask you a  
7 question about your current position.

8 Are you -- well, what did you do for work after you left  
9 ARG?

10 A Yeah, so as I mentioned, I was scheduled -- I had to wait  
11 that year to have surgery, and I was now scheduled to have that  
12 surgery in July. It had a six-week recovery period. And they  
13 laid me off just weeks before that surgery, knowing that that  
14 surgery would happen.

15 So I really couldn't work. I couldn't collect  
16 unemployment because I wasn't able to even be available to  
17 work. And so I searched for work while I was out and found a  
18 part-time job that I had had previously, as a Peace Corps  
19 campus recruiter at UVA. That's a job I had when I first  
20 returned from the Peace Corps in 2012.

21 And they were very friendly people. I knew they would be  
22 very accepting of me and my need to continue therapy. And it  
23 was a part-time role that would allow me the time to do that.

24 Q And for how long were you in that role?

25 A I committed to the academic year of 2018 to '19, so



A. Muniz - Direct

1 August '18 to May of '19.

2 Q And what did you do after that for work?

3 A After that, I took a position trying to get back into  
4 clinical research with the School of Medicine, working in their  
5 clinical trials office.

6 Q When you say the School of Medicine, what do you mean?

7 A The University of Virginia School of Medicine.

8 Q And how did your salary at the UVA School of Medicine  
9 compare to what you were making at ARG?

10 A Oh, about 70 percent -- 65, 70 percent.

11 Q At some point, were you able to get a full-time position  
12 at your salary level from August of 2017?

13 A Yes. Finally, this year, in January.

14 MS. PHILLIPS: Okay. Mr. Spalding, I'd like to show  
15 Ms. Muñiz Plaintiffs' 3320E.

16 (Plaintiffs' Exhibit3320E marked.)

17 BY MS. PHILLIPS:

18 Q Ms. Muñiz, do you recognize this?

19 A I do.

20 Q And what is it?

21 A This is a summary of my lost wages from August of 2017  
22 through the end of December, January 2020.

23 Q Did you review the documents that this chart is based on?

24 A I did.

25 Q Is it an accurate summary of your lost wages?

A. Muniz - Cross

1 A It is.

2 MS. PHILLIPS: Your Honor, I'd move Plaintiffs' 3320B  
3 into evidence.

4 THE COURT: Be admitted.

5 (Plaintiffs' Exhibit3320B admitted.)

6 BY MS. PHILLIPS:

7 Q Ms. Muñiz, I have just one question left for you.

8 It's been four years since the car attack. Do you feel  
9 like you've gotten back to your old self at this point?

10 A No. I don't think I'm ever going to get back to my old  
11 self. As I mentioned, this whole experience really upended my  
12 life and I -- through lots of therapy and time, I've learned  
13 how to manage being my new self, a different person, and I kind  
14 of have been given some tools to figure out how to do that.

15 MS. PHILLIPS: Thank you very much. I have no  
16 further questions.

17 THE COURT: All right.

18 MR. KOLENICH: No questions, Your Honor.

19 CROSS-EXAMINATION

20 BY MR. SPENCER:

21 Q Good afternoon. My name is Richard Spencer and I'm acting  
22 on my own behalf.

23 A Yes, I know.

24 Q Okay. Your name is pronounced Mrs. Muñiz; is that  
25 correct?

A. Muniz - Cross

1 A Ms. Muñiz.

2 Q Ms. Muñiz. Okay.

3 So you've testified that you went to the Unite the Right  
4 rally around noon?

5 A Uh-huh.

6 Q Is that correct?

7 A That's correct.

8 Q So had you done some preparation before deciding to attend  
9 the rally?

10 A None at all.

11 Q But you did a basic amount to know when it was set to  
12 start?

13 A Sure. I knew what time it was. I knew that -- where it  
14 was. And I knew that there were some events in the parks on  
15 either side of it that would be alternate places for me to go  
16 if I found the rally boring.

17 Q Okay. Were you aware of me, Richard Spencer, before the  
18 rally?

19 A Not before -- well, I think in preparation for the rally,  
20 it was in the news. And there was a lot of coverage of you and  
21 Jason Kessler because you were both UVA graduates.

22 Q Right. So being that I'm here in the courtroom with you  
23 today, if you look back on what happened, did -- at any point  
24 on August 12th, did you ever see me?

25 A No.

A. Muniz - Cross

1 Q Okay. So you entered Emancipation Park and you described  
2 it as empty?

3 A Well, I didn't enter Emancipation Park. I walked by it.  
4 And it was empty, yes.

5 Q Right. Okay. What was your understanding at the time of  
6 why it was empty?

7 A Well, at first I didn't know. There were some people kind  
8 of milling about, and I asked them, and they said that a state  
9 of emergency had been called.

10 Q Okay. You don't strike me as someone who wanted -- sought  
11 out violence at all. So what were some of your notions going  
12 into the rally? Why did you want to go there and take part in  
13 some way?

14 A So I've been a resident of this area for 31 years. I  
15 moved here to start my adult life and I consider it my home.  
16 And I really wanted to -- I kind of took offense that a group  
17 of people were coming here with different beliefs than I --  
18 much stronger, different beliefs than I had. I didn't think  
19 they shouldn't have them; I didn't think they shouldn't talk  
20 about them; but I did want to watch and observe and sort of  
21 stand in witness to it with my community.

22 Q So needless to say, you were not seeking out to get into  
23 some kind of confrontation, right?

24 A I was definitely not.

25 Q Maybe a verbal confrontation at most?

A. Muniz - Cross

1 A Not even.

2 Q Not even that. Okay. That sounds right.

3 And then you said that you kind of milled around. You  
4 might have thought about going to another park and then you  
5 kind of entered a crowd that was downtown and you described it  
6 as celebratory in some way?

7 A It was, yes.

8 Q So this case is terribly fraught with politics and  
9 accusations of hatred and the race issue and all of it. I  
10 don't even need to tell you that.

11 But it ultimately is a conspiracy charge. You are  
12 claiming that you've suffered post-traumatic stress disorder or  
13 some mental distress of some kind after the event took place  
14 downtown because due to your witness of a horrific car  
15 incident.

16 A Correct.

17 Q Correct? So how would the organizers of the Unite the  
18 Right plan on that taking place? How could they have -- so you  
19 have testified that you went to the park to hear speeches or  
20 see what was going on, right?

21 A Yes.

22 Q How could they have masterminded a situation in which  
23 downtown descended into chaos and a terrible event and a death  
24 occurred?

25 MS. PHILLIPS: Objection, Your Honor. Ms. Muñiz was

A. Muniz - Cross

1 injured on August 12th, sought counsel, and the conversations  
2 about how the case --

3 THE COURT: Sustain the objection.

4 MS. PHILLIPS: Thank you, Your Honor.

5 BY MR. SPENCER:

6 Q Is it in your mind that -- in your mind the grouping in  
7 downtown was somehow coordinated by the organizers; is that  
8 true?

9 A I'm not sure what you mean by "the grouping downtown."

10 Q Well --

11 THE COURT: Mr. Spencer, she doesn't -- she could  
12 have been asleep on the corner and somebody wheeled her there  
13 in a wheelchair. She doesn't have to know anything about what  
14 went on before. That's why people hire lawyers, to investigate  
15 and bring a case that they think. There's no requirement that  
16 the individual plaintiff know all the details of what brought  
17 about the accident.

18 BY MR. SPENCER:

19 Q So that was not your state of mind at the time. Your  
20 state of mind at the time --

21 THE COURT: Let me say something else. If you get  
22 the wrong answer and they say yes, Mr. Spencer, I think so,  
23 that's evidence against you.

24 MR. SPENCER: Okay. No further questions.

25 THE COURT: All right.

A. Muniz - Cross

1 MR. CAMPBELL: May I approach counsel for one quick  
2 question, Your Honor?

3 THE COURT: You may.

4 CROSS-EXAMINATION

5 BY MR. CAMPBELL:

6 Q Good afternoon, Ms. Muñiz. I represent James Fields in  
7 this lawsuit.

8 Ma'am, as I understand your testimony, you were not struck  
9 by Mr. Fields's car, correct?

10 A I was not struck by the car.

11 Q You were not struck by any debris or any person propelled  
12 by the car, correct?

13 A I was pushed and shoved by people getting out of the way  
14 of the car, but I was not physically injured by that.

15 Q Yes, ma'am. Okay. And as you said, no physical injury.  
16 It was emotional, mental trauma are the injuries you claim?

17 A Exactly, yes.

18 Q And that's from seeing the attack and seeing others hurt?

19 A Yes.

20 Q Ma'am, can you very briefly describe what EMDR is?

21 A Yes.

22 Q First of all, that's the therapy, right?

23 A That is the therapy. Eye movement desensitization and  
24 reprocessing, it's called. It's a therapy, as I understand it,  
25 that's really designed for trauma victims. It originally

A. Muniz - Cross

1 started with an eye movement back and forth, your eyes going  
2 back and forth as you were receiving cognitive therapy  
3 treatment, to separate the bodily response to an event from the  
4 mental memories of the event. It has since moved along and  
5 instead of eye movement they use little tapping devices in your  
6 hand.

7 Q So basically you kind of relive the event you witnessed  
8 and rapidly move your eyes side to side or make a tapping?

9 A Yes, I've relived that moment so many times in the last  
10 four years.

11 Q Yes, ma'am. All right. And then, so I think you said you  
12 arrived downtown around noon?

13 A Uh-huh.

14 Q And the rally was over?

15 A It was over.

16 Q I wanted to go through very briefly the employment  
17 situation. So it looks like from the exhibit that your counsel  
18 presented to you and introduced into evidence that there was a  
19 period of time when you were unable to work at all from  
20 immediately following, from the day of the incident until I  
21 believe it was October 31st; is that correct?

22 A Correct.

23 Q And then there was a period following that where you went  
24 back part-time from November 1st through the end of the year  
25 pretty much?



A. Muniz - Cross

1 A Correct.

2 Q And then January 3rd, I think you said?

3 A That was the first working day of the year.

4 Q Yes, ma'am, with the New Year's holiday, that sort of  
5 thing. Then you worked full-time at your same place of  
6 employment through June of 2018?

7 A Yes, the beginning of -- I think the first week of June.

8 Q Okay. And were you let go because you were upset over the  
9 job change or the reduction in your role?

10 A I had come to terms with that change. Like I said, I  
11 believed that the management team really, having taken me off  
12 the management team before I even returned to work, they just  
13 lost confidence that because I was out and because they knew I  
14 was dealing with mental health issues, they just didn't think I  
15 could handle it. And yeah, they really stopped talking to me.  
16 They put me in an office in the corner and didn't really have  
17 many conversations with me.

18 Q Understood. And the medical treatment that you're  
19 claiming, the therapy as a result of the incident, I believe  
20 according to the exhibits totaled just over \$7,000?

21 A Yes, I believe that's what I said.

22 Q And your claim for lost wages is \$203,000?

23 A It might have said 204,000, but yes.

24 MR. CAMPBELL: My apologies. I don't have any more  
25 questions. Thank you, ma'am.

A. Muniz - Cross

1 MR. JONES: I don't have any questions.

2 MR. CANTWELL: I do.

3 Earlier we had seen a video shot from a helicopter  
4 and I believe that video was entered into evidence. What I  
5 have on my screen right now is Plaintiffs' Exhibit 1353, which  
6 I believe is a still frame from that helicopter shot. If  
7 that's accurate, I'd like to move it into evidence and publish  
8 it to the jury.

9 THE COURT: If you can find it.

10 MS. PHILLIPS: No objection.

11 THE COURT: Is it in evidence?

12 MR. CANTWELL: 1353, Plaintiffs' Exhibit 1353, I  
13 would like to put it into evidence and show it to the jury.

14 MS. PHILLIPS: No objection.

15 THE COURT: Be admitted.

16 (Plaintiffs' Exhibit 1353 marked.)

17 (Plaintiffs' Exhibit 1353 admitted.)

18 CROSS-EXAMINATION

19 BY MR. CANTWELL:

20 Q So are you able to tell the orientation of which street is  
21 where looking at this shot, Ms. Muñiz?

22 A Maybe if you just give me a sec.

23 Yes, I believe this is the parking garage.

24 Q Can you show me where --

25 A That is Water Street and I believe that is Fourth Street.

A. Muniz - Cross

1 Q Okay. Thank you for helping me out with that. So it  
2 would be fair to say the car crash happened right about there;  
3 is that right?

4 A Yes.

5 Q Okay. Any idea how many people are there?

6 A A couple hundred, maybe more.

7 Q You said you brought a camera with you?

8 A I did.

9 Q Did you take some pictures?

10 A Yeah.

11 Q Shoot any video?

12 A Yes.

13 Q Was that -- was those photos and video, were they provided  
14 in discovery in this case?

15 A Yes, they were.

16 Q Did you take any pictures of anybody wearing a mask?

17 A I don't remember.

18 Q If we could take this down from the jury, I'm going to try  
19 to refresh her memory.

20 Do you remember that?

21 A I remember that very well, yes.

22 Q Is that from August 12th?

23 A It is.

24 Q So you took a photo of somebody wearing a mask?

25 A I took a photo of Barack Obama kissing Michelle.

A. Muniz - Cross

1 Q Do you see the man with the mask?

2 A I do see it, but that's not what I was taking a photo of.

3 Q Do you see the man carrying the club?

4 A I don't. And I also don't remember taking pictures in  
5 black and white. Has this been altered?

6 Q So I am looking at what was delivered to me by plaintiffs'  
7 counsel in this case. I have this as a Bates number MUÑIZ  
8 00000573. That's what I have this as.

9 A Okay.

10 Q And that's the image that I have. Now, I think that -- I  
11 don't know if there's any way for me to lighten this image  
12 because I have this much clearer on my screen than it's  
13 appearing on that one. But can you see something in the hand  
14 of the man that's circled in purple there?

15 A Yes.

16 Q Okay. Other than him, do you remember anybody carrying  
17 weapons?

18 A No.

19 Q Do you remember anybody wearing helmets?

20 A Yes.

21 Q You remember people wearing helmets. Do you remember if  
22 any of the people wearing helmets were wearing camouflage?

23 A I don't remember that. I remember several of them had  
24 GoPro cameras attached to their helmets, and press badges.

25 Q Do you remember anybody who was wearing a helmet who did

A. Muniz - Cross

1 not appear to be press?

2 A I probably did.

3 Q Did you see anybody wearing helmets that was covering  
4 their face?

5 A Like a motorcycle helmet covering your face?

6 Q No, I mean like a bandanna.

7 A I don't recall.

8 Q Do you remember if anybody else was wearing bandannas?

9 A I think there were plenty of bandannas there. I had a  
10 bandanna with me.

11 Q You had a bandanna?

12 A Uh-huh.

13 Q What color was your bandanna?

14 A Gray. It's pretty hot in August. People tend to carry  
15 bandannas with them.

16 Q Is that a thing?

17 A It's a thing.

18 Q So large numbers of people show up and lots of them have  
19 the same color bandannas, and that's the weather you're  
20 thinking?

21 A I don't know about the color, but many people carry  
22 bandannas to wipe sweat off them in July and August.

23 Q Did you notice a lot of people with red bandannas in that  
24 crowd you were marching with?

25 A I did not notice it at the time.

A. Muniz - Cross

1 Q Did you notice a lot of people with black bandannas?

2 A There was a lot of black in general on people that day.

3 Q A lot of black in general that day. Hot day, though,  
4 right?

5 A I was wearing black.

6 Q So this is Plaintiffs' 1694. This is already in evidence.  
7 We can publish this and show it to the jury.

8 So I think we said -- let me see if I can zoom this in a  
9 little bit, actually.

10 That's you, right?

11 A That is me, yes.

12 Q That guy look familiar to you?

13 A I recall him from seeing this picture.

14 Q You don't recall seeing him that day?

15 A No.

16 Q Does he appear to be wearing a mask?

17 A I suppose that could be a mask or a shadow, but maybe.

18 Q I'll zoom in a little more.

19 A It looks to be like a gaiter.

20 Q A gaiter?

21 A Something you wear around your neck and pull up.

22 Q So he appears to be wearing sunglasses, too, right?

23 A He does.

24 Q He appears to be wearing a helmet?

25 A He does.

A. Muniz - Cross

1 Q So he's got a gaiter, sunglasses, and a helmet?

2 A Yeah. It's a pretty colorful crowd.

3 Q What about the guy right in front of him?

4 A I'm not sure I see a guy. I see another helmet.

5 Q Yeah.

6 A Is that what you're referring to?

7 Q Can you tell anything about the jacket that the man with  
8 the helmet in front of him is wearing?

9 A Not really.

10 Q Let me see if we can zoom this in a little bit more, if it  
11 helps.

12 A Could you get rid of that circle?

13 Q Yeah, I will. I'm going to zoom this in and then I'll move  
14 this over and put the circle there. Unfortunately we're  
15 getting a little pixillated at this zoom level, but this is the  
16 guy I'm talking about. Does that sort of resemble camouflage?

17 A It could be.

18 Q And then there seems to be three guys with helmets all  
19 right near each other, huh?

20 A There does.

21 Q Do you remember this sign?

22 A I don't remember it from the day, but I see it in this  
23 picture.

24 Q That mean anything to you?

25 A Sure. That fist, it says right there, it means

A. Muniz - Cross

1 solidarity. I've seen that fist my whole life.

2 Q That raised fist means solidarity?

3 A I grew up in the civil rights movement era, yes.

4 Q Okay.

5 A I saw a picture of that same fist with a fork in it  
6 earlier in the day at a snack station.

7 Q With a fork in it at a snack station?

8 A Uh-huh.

9 Q That's like a Charlottesville restaurant or something?

10 A No. I think it was a play on the image.

11 Q I'm saying -- is the snack station a brand name?

12 A No. No. I'm saying at the alternate park that I wandered  
13 through, there was a snack station set up with water and  
14 snacks.

15 Q I see. So on August 12th somebody was selling snacks or  
16 giving away snacks?

17 A Giving away, yes.

18 Q And they had the raised left fist with a fork in its hand?

19 A You can probably find the picture in the file. I took a  
20 picture of it. It was funny to me.

21 Q And we see that fist again here and again here, right?

22 A Yes. "Defend women's rights" with the fist.

23 Q Right. We see this guy. He's got that red flag there,  
24 right?

25 A Uh-huh.



A. Muniz - Cross

1 Q What's that red flag on?

2 A What's it on?

3 Q Yeah.

4 A A flagpole.

5 Q Now I'm showing you Plaintiffs' Exhibit 1692 which I  
6 believe is already in evidence. I'd like to publish this and  
7 show it to the jury.

8 Did you see this flag that day?

9 A No. I did not see that. I was too busy looking at this  
10 scene that you see in front of you.

11 Q I understand, but you didn't see that logo anywhere else  
12 that day?

13 A I don't even see what that logo is right now.

14 Q Okay. You don't recognize it in any case. Fair enough.

15 Could you point yourself out in this image again? I'm  
16 sorry. Or do I even have you in the frame?

17 A Can you scroll up?

18 Yes. I am there.

19 Q So you're right about there. And were you there as the  
20 car came down the street and crashed or did you move up after  
21 the crash or...

22 A I was right about there.

23 Q Okay. So -- all right. This is Plaintiffs' Exhibit 0313.  
24 I believe it's already in evidence. And I'd like to show it to  
25 the jury. I'm going to play this in slow motion.

A. Muniz - Cross

1 A Can you get rid of that circle.

2 Q Yes, I will. Thank you.

3 (Video playing.)

4 Are you able to see yourself in this or do you have an  
5 idea about where we are? This is less than a minute before the  
6 crash.

7 A Yeah, I know where this vantage point is. I'm familiar  
8 with the street. This is at the top of the street because  
9 these newspaper machines are up there, as is the motorcycle  
10 parking. And I was -- if you can see a telephone pole way in  
11 the distance, I was near that telephone pole.

12 Q You were near the telephone pole.

13 A So I cannot see myself in this picture.

14 Q That's a good reference point.

15 Okay. Excuse me one second while I pull that back up.

16 (Video playing.)

17 I want you to keep your eye right there. Did you see  
18 somebody swing something at that car?

19 A Could you replay it?

20 Q Sure.

21 A Without that circle.

22 Q Yes.

23 A Yes, I see somebody swinging at the back light.

24 Q Did you see anybody else carrying clubs, weapons, bats,  
25 that sort of thing?

A. Muniz - Cross

1 A I didn't recognize any that day.

2 Q Did you recognize any of the chants of the people that you  
3 were walking with?

4 A Sure.

5 Q Can you tell me a couple of them?

6 A When I joined the crowd people were chanting "black lives  
7 matter." And at that point we were chanting "Whose streets?  
8 Our streets."

9 Q "Whose streets? Our streets." And you don't perceive  
10 that to be a violent chant, do you?

11 A It seemed like a celebratory chant.

12 Q Earlier that chant was described as about dominating  
13 physical space. Did you perceive it that way?

14 A I perceived it as retaking space.

15 Q Retaking space. Okay. Did you hear anybody chanting  
16 anything about Antifa?

17 A No.

18 Q Did you hear "ah, anti, antifa, antifascista"?

19 A Nope.

20 Q And you definitely would have heard that if you were in  
21 the presence, right?

22 A Well, no. You can hear that's a pretty noisy crowd and I  
23 was in the middle of a sea of people. Somebody could have said  
24 it. I just don't recognize it or recall.

25 Q Suffice it to say you did not hear the crowd in unison

A. Muniz - Cross

1 making that chant?

2 A No, I did not hear that.

3 MR. CANTWELL: We can take this down. Now I'm  
4 showing the witness Plaintiffs' Exhibit 0291, which is in  
5 evidence, and I'd like to show this again to the jury.

6 BY MR. CANTWELL:

7 Q Do you remember seeing this black Antifa flag while you  
8 were chanting --

9 MS. PHILLIPS: Objection, Your Honor, there's no  
10 foundation for anybody having testified so far that that is an  
11 Antifa flag.

12 THE COURT: Sustained. You can stop.

13 BY MR. CANTWELL:

14 Q Do you remember seeing that flag while you were marching  
15 with those folks?

16 A No. As you can see there's a lot of flags. I don't  
17 remember seeing that one in particular.

18 Q Do you know what Antifa is?

19 A I have come to understand it a little bit. I did not know  
20 what Antifa was at the time.

21 Q On August 12th, 2017, you had never heard of Antifa?

22 A No, I had not.

23 Q Okay. Since then, have you come to recognize Antifa  
24 symbols?

25 MS. PHILLIPS: Objection, relevance.

A. Muniz - Cross

1 THE COURT: Sustained. She didn't know at the time.

2 MR. CANTWELL: That's fine.

3 BY MR. CANTWELL:

4 Q You said you got first aid at the United Methodist Church?

5 A I got trauma therapy there.

6 Q You got it on August 12th, right?

7 A Yes.

8 Q Okay. You had seen a certified trauma therapist there?

9 A Yes.

10 Q They were -- was the church seem prepared to provide  
11 substantial medical assistance?

12 A It appeared to have a first aid station in it and a trauma  
13 therapist at least. I was pretty out of it when I entered and  
14 left that building.

15 Q Do you know if any of the people who treated you were  
16 wearing red bandannas?

17 A The medic on the street that helped me up and took me  
18 there was wearing a red bandanna.

19 Q But none of the medics inside the church were wearing red  
20 bandannas to the best of your recollection?

21 A Like I said, I don't know. I was kind of out of it.

22 Q Were there many people in the church when you went there?

23 A Again, I don't really recall.

24 Q Did you see anybody changing their clothes in the church?

25 A I don't think so.

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1 Q After this, did you attend a DC march against white  
2 supremacy?

3 A I did, yes.

4 Q Have you attended other such events since August 12th?

5 A What do you mean by "such events"?

6 Q Have you attended political marches, rallies, that sort of  
7 thing?

8 A I attended that march, a part of that march. And I recall  
9 standing at the Freedom of Speech Wall here in Charlottesville  
10 while we listed out the names of black individuals that had  
11 been killed at the hands of the police.

12 Q Right. Okay. You said that you get nervous when you see  
13 rows of white cars because of the vans that rally attendees  
14 drove to the park in?

15 A Yes.

16 MR. CANTWELL: Thank you very much. No further  
17 questions.

18 THE COURT: All right.

19 MS. PHILLIPS: Nothing on redirect, Your Honor.

20 THE COURT: Thank you. You may step down. I guess  
21 we may as well stop unless you've got a two-minute witness.

22 MS. DUNN: We have a witness who will be somewhere in  
23 the 20 to 30-minute range, but she's here and we could start,  
24 Your Honor, if you'd like.

25 THE COURT: We only have 7 minutes before 5.

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1 Members of the jury, we're going to recess now until  
2 9 o'clock tomorrow morning. Over the night do not discuss the  
3 case with anyone or allow anyone to discuss it with you or  
4 remain within hearing of anyone discussing it. We'll see you  
5 back here tomorrow morning at 9 o'clock.

6 **(Jury out, 4:51 p.m.)**

7 MS. DUNN: Your Honor, we could discuss scheduling,  
8 if you'd like.

9 THE COURT: Do what?

10 MS. DUNN: We could discuss scheduling, if you would  
11 like, for a few minutes.

12 THE COURT: All right. Go ahead.

13 MS. DUNN: Your Honor, we -- our remaining witnesses  
14 are ready to go. They're not long. We have the plaintiff that  
15 we were just going to call, we can call tomorrow. The two  
16 damages witnesses, because we have no stipulation, and then  
17 Mr. Schoep, who is a defendant, could only come tomorrow. So  
18 we would -- we'll call him as well.

19 After that, we would have two witnesses, Mr. Kessler  
20 and Mr. Cantwell, but there has been discussion about the  
21 defense calling them, so they only have to come once to save  
22 time.

23 With regard to Mr. Kessler, we discussed with some  
24 defense counsel earlier, we discussed with Mr. Kolenich,  
25 Mr. Spencer and Mr. Jones in particular. Mr. Spencer plans to

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1 call Mr. Kolenich -- I'm sorry, apologies, Mr. Kessler. I  
2 believe he's going to call him on Monday. And then we would --  
3 can cross-examine after the defense counsel are done examining  
4 Mr. Kessler. So we just wanted to say that we would keep our  
5 case open for Mr. Kessler and Mr. Cantwell to testify and rest  
6 after that.

7 THE COURT: Okay. Is that a problem?

8 MR. CANTWELL: I object to them keeping their case  
9 open.

10 THE COURT: What about Mr. Kessler's attorney?

11 MR. KOLENICH: That's precisely what we discussed,  
12 Your Honor. She accurately represented the situation.

13 THE COURT: Well, it will remain open. You can make  
14 your motion whenever, but...

15 MS. DUNN: The question remains, Your Honor -- and I  
16 think defense counsel and Mr. Cantwell and Mr. Spencer are  
17 discussing this -- we should not fill the day tomorrow. We do  
18 have some video after that, but there may be time in the day  
19 tomorrow when the defense would call witnesses. So I don't  
20 know if they've decided who those witnesses would be --  
21 obviously, we'd like notice of that today, tonight -- but I  
22 just wanted for everybody to be on the same page.

23 THE COURT: Who is going first tomorrow?

24 MR. KOLENICH: It will not be me, Your Honor, and  
25 Mr. Kessler will not be here until Monday. So we know it won't



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1 be Mr. Kessler.

2 THE COURT: I think it's optimistic to think you're  
3 going to get all those witnesses in.

4 Well, tomorrow when they finish, I'm going to call on  
5 somebody over on this side.

6 MR. KOLENICH: Yes, sir.

7 MS. DUNN: Thank you, Your Honor. We appreciate it.  
8 (Proceedings adjourned, 4:56 p.m.)

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C E R T I F I C A T E

I, Lisa M. Blair, RMR/CRR, Official Court Reporter for the United States District Court for the Western District of Virginia, appointed pursuant to the provisions of Title 28, United States Code, Section 753, do hereby certify that the foregoing is a correct transcript of the proceedings reported by me using the stenotype reporting method in conjunction with computer-aided transcription, and that same is a true and correct transcript to the best of my ability and understanding.

I further certify that the transcript fees and format comply with those prescribed by the Court and the Judicial Conference of the United States.

/s/ Lisa M. Blair

Date: November 11, 2021